

EXHIBIT

34B

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10 KIRKLAND & ELLIS, LLP	10
11 By James A. Shimota, Esq.	11
12 200 East Randolph Drive	12
13 Chicago, Illinois 60601	13 *Original exhibits retained by Atty. Shimota
14 312-861-2336	14
15 Counsel for the Defendant	15
16	16
17 ALSO PRESENT: Lily Olm, Interpreter	17
18 Jody Urbati, Videographer	18
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1 PROCEEDINGS
2 THE VIDEOGRAPHER: Here begins Videotape
3 No. 4 in the deposition of Juergen Hoerer in the
4 matter of Braun vs Rayovac Corporation. Today's
5 date is May 12, 2005. The time 8:09 a.m. The Court
6 Reporter today is Carol Pagliaro of LegaLink Boston.
7 Please begin.
8 JUERGEN HOESER,
9 a witness called on behalf of the Defendant, having
10 previously been duly sworn, was deposed and
11 testified as follows:
12 CONTINUED EXAMINATION
13 (With the Assistance of an Interpreter)
14 BY ATTY. SHIMOTA:
15 Q. Welcome back. At the end of the day
16 yesterday we were discussing the 3 different types
17 of drying which are now involved in Braun's cleaning
18 center?
19 A. Yes.
20 Q. And putting aside the cleaning center with
21 the fan, are there products on the market that are
22 available that have the conduction heater and also
23 the passive drying?
24 A. Do you mean of Braun or from other companies

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1 as well?
2 Q. I guess let's start first with Braun and
3 then if you are aware of another company that sells.
4 A. Braun has one product on the market that
5 uses passive drying and one product that uses
6 inductive drying.
7 Q. And do both of those products look
8 physically like the cleaning center with the fan?
9 A. No.
10 Q. What are the differences between the
11 products with the fan and the, well, I guess, first
12 the product with the induction heating?
13 A. Do you refer only specifically now to the
14 heating unit or to the whole apparatus?
15 Q. I guess I'm asking about the whole
16 apparatus.
17 A. The apparatus with the inductive heating
18 does not have a dome, so it is much flatter, meaning
19 it is not as high, and it doesn't have any air
20 inlets.
21 Q. How does the passive drying system -- or how
22 does the product which employs passive drying differ
23 from the product that has the drying with the fan?
24 A. The body of the apparatus is smaller,

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1 because it does not contain a fan, and there is no
2 air inlet.
3 Q. Are there, or to the extent -- do you know
4 whether it is Braun's plan to phase out the product,
5 the cleaning center product, which employs the fan
6 for drying?
7 ATTY. PATTON: Object to the form of the
8 question as being outside the notice.
9 A. The situation today is such that these
10 products are going to be manufactured in the future.
11 Q. So all 3 products are going to be
12 manufactured on a going-forward basis?
13 A. Yes.
14 Q. And are all 3 products offered for sale in
15 the United States?
16 A. I can't answer that question.
17 Q. That's something I guess would be asked to
18 someone in marketing?
19 A. Correct.
20 Q. Who -- well, were you directed by anyone to
21 develop the passive drying and induction heating
22 drying in the cleaning centers?
23 A. The inductive heating method was developed
24 by a colleague of mine and the passive one where

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1 nobody had to develop it because nothing is done.
2 Q. Who is the colleague who developed the
3 induction heating?
4 A. It's discretion geared towards the project
5 manager or the person who worked with me on the same
6 hierarchical level.
7 Q. I guess if I could ask the names of both
8 individuals.
9 A. The name of mine colleague is Juergen Wolf
10 and the project manager is Christoph Kleeman.
11 Q. Do you know if Mr. Wolf generated documents
12 related to his work on the induction heating system?
13 A. Of course.
14 Q. Do you know whether Braun has gathered
15 documents generated by Mr. Wolf related to his work
16 on the induction heating element in connection with
17 this litigation?
18 A. I don't know.
19 Q. I believe yesterday you said that, correct
20 me if I'm wrong, but I believe you said that two
21 disadvantages of using the fan to dry would have
22 been space constraints and noise; am I remembering
23 correctly?
24 A. Correct.

2 (Pages 121 to 124)

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<p style="text-align: right;">Page 125</p> <p>1 Q. And how did you come to learn of those 2 disadvantages?</p> <p>3 A. One issue, when it comes to the apparatus 4 and when you make a survey among customers, it is 5 always related to size. It's not a problem. It's 6 weaker than a problem, so that's the reason why I 7 said the issue, okay?</p> <p>8 Q. So had you personally seen customer surveys 9 in which they described issues they had with the 10 cleaning center?</p> <p>11 A. Yes.</p> <p>12 Q. And in these customer surveys did they 13 express that the size of the device was an issue?</p> <p>14 A. Yes.</p> <p>15 Q. And in the customer surveys did customers 16 also voice as an issue noise generated by the fan?</p> <p>17 A. You have to distinguish one thing, the 18 apparatus also generates noise without the fan. 19 Because the customer has no idea what happens inside 20 of the apparatus, the customer complains about noise 21 in general. The customer doesn't say the fan is too 22 loud, they say the apparatus makes too much noise.</p> <p>23 Q. I understand. So noise in general is an 24 issue?</p>	<p style="text-align: right;">Page 127</p> <p>1 to 3. This only happens for the first one to 2 2 years when the product is first on the market, 3 because after that time period the answers won't 4 differ anymore.</p> <p>5 Q. So we are probably looking at about 4 to 6 6 customer surveys that you received?</p> <p>7 A. Yes.</p> <p>8 Q. Let me ask first, did you provide the 9 customer surveys that you receive related to the 10 cleaning center project to the attorneys in this 11 case?</p> <p>12 A. No.</p> <p>13 Q. Did the attorneys ask you for the customer 14 surveys?</p> <p>15 A. No.</p> <p>16 Q. Let me ask you this, You said you provided 17 binders and your notebooks to the attorneys, but now 18 you have also said you haven't provided the customer 19 surveys to the attorneys. Is there any other 20 information that you have -- putting aside your 21 e-mails, but any other information that you 22 personally have regarding the cleaning center that 23 you have not provided to the attorneys?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 126</p> <p>1 A. Yes.</p> <p>2 Q. And one way that Braun has sought to 3 minimize noise is to search for drying methods which 4 do not employ a fan?</p> <p>5 A. Correct.</p> <p>6 Q. From where did you receive -- or from whom 7 did you receive the customer surveys?</p> <p>8 A. The results of the customer surveys are 9 circulated, distributed, among the project managers 10 and the co-project managers in our company, and they 11 all originate in market research.</p> <p>12 Q. How often are customer surveys typically 13 distributed amongst the project managers?</p> <p>14 A. With regards to a single project one can 15 expect 2 to 3 surveys per year.</p> <p>16 Q. So this product, the cleaning center, has 17 been on the market since 1999; is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. We are halfway through 2005, so we are 20 looking at approximately -- am I correct that you 21 would have received 10 to 15 customer surveys 22 regarding the cleaning center?</p> <p>23 A. Maybe I have to specify the answer I gave 24 previously when I answered that we would receive 2</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. And can you tell me what that information 2 is?</p> <p>3 A. There is the stack with the drawings on 4 paper. I did not transmit this stack with the 5 drawings, because they are better -- the quality of 6 the drawings is better in digital form, and then the 7 communication, the written communications which 8 existed with certain suppliers with regards to 9 certain parts, I did not transmit that information 10 either, and then, well, once the part functions, the 11 part is delivered, then it's perfectly fine to 12 discard the document, so I cannot say a hundred 13 percent that this document still exists.</p> <p>14 The reason for that being that from that 15 moment on it's the plant itself that takes on the 16 responsibility for the quality of those parts, and 17 so then the first day where the parts are shipped, 18 that's the best quality, and that quality will be 19 maintained.</p> <p>20 Q. Aside from the paper drawings and the 21 communications with suppliers, can you think of any 22 other information you have related to the cleaning 23 center project that you have not provided to the 24 attorneys?</p>

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1 A. To the best of my knowledge right now, no.
2 Q. Aside from customer surveys do you receive
3 any other information from marketing?
4 A. So I also have to make a correction with
5 regards to what I said before. When I'm talking
6 about these surveys, that does not only englobe or
7 include market research information where I go and
8 ask the customer what he thinks of the product, but
9 it also contains follow-up studies.
10 Q. What would be these follow-up -- what would
11 be the follow-up studies?
12 A. The follow-up study consists in asking a
13 client who purchases the product today, in 6 months
14 from today, what the satisfaction level is with the
15 product, and when I do a regular market research I
16 ask whoever I see.
17 Q. Would both of those, those 2 studies you
18 mentioned, would both of those be included within
19 the consumer surveys that you mentioned?
20 A. Yes.
21 Q. In general how long were these in terms of
22 pages, how long were these customer surveys?
23 A. Somewhere between 50 and 100, even more.
24 It's more likely that there were more pages.

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1 Q. So something, most likely, greater than a
2 hundred; is that fair to say?
3 A. It depends.
4 Q. So -- well, it could be 50 to a hundred or
5 more?
6 A. Yes.
7 Q. When you receive the consumer surveys from
8 marketing were they distributed by any particular
9 individual or individuals?
10 A. Yes.
11 Q. And can you give me the names of that
12 individual or individuals?
13 A. Hartmuth Landman.
14 Q. Would you please spell that.
15 A. H R A R T M O T and Land man. There is a
16 possibility that Hartmuth has a -th at the end.
17 Q. Do you know if Braun has made any efforts to
18 collect documents from Mr. Landman?
19 A. I don't know.
20 Q. In current iterations, or at least one
21 iteration of the cleaning center I have seen now
22 from Braun -- let me see if I can draw it, because I
23 didn't bring them with.
24 ATTY. SHIMOTA: Let's mark this as

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1 Defendant's Deposition Exhibit No. 66.
2 (Exhibit No. 66 marked for
3 identification.)
4 Q. I don't know if this will help you at all.
5 What I'm trying to illustrate there is that you had
6 what I have seen in -- I guess what I would call the
7 first generation of the cleaning center there would
8 have been a support protruding from the top of it,
9 and now -- and what I have seen, and I don't know if
10 it's the next generation or rather a subsequent
11 generation, there is no longer that support; do you
12 understand what I'm talking about?
13 A. This is correct. This is the first
14 generation, and that's the second generation, and we
15 call this support dome. We took the dome out so
16 that the size is optically reduced.
17 Q. You took the dome out because of the general
18 consumer preference for a smaller device?
19 A. Correct.
20 Q. And so when we were talking earlier about
21 also the drying with induction heating and passive
22 and you mentioned the fact that those devices no
23 longer have the dome, is that what you were
24 referring to?

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1 A. This apparatus, the one which belongs to the
2 second generation, is the apparatus with the
3 inductive drying, but the one with passive drying
4 still has the dome.
5 Q. Just so I can get the numbering correct,
6 because we have first and second generation, first
7 generation has the dome and fan drying; is that
8 correct?
9 A. Mm.
10 Q. Did the next generation have the dome and
11 passive drying?
12 A. No.
13 Q. Let me try and ask the question maybe an
14 easier way. What was the order of the development?
15 We know what came first, then so what came next, and
16 what came last?
17 A. You have to visualize a three-dimensional
18 picture. We need another axis, and this other axis
19 would be the price, the price axis.
20 Q. Can you explain to me how having the price
21 axis would assist there?
22 A. It is the situation such that the first and
23 second generation, that's top price, and the third
24 product is the first generation at a medium price.

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<p style="text-align: right;">Page 133</p> <p>1 Q. Okay, I understand. What was the function 2 of the dome? 3 A. Well, the first function of the dome is to 4 support the razor, the shaver, but the main function 5 it consists in the contact with the shaver and to 6 allow the communication and the charging between the 7 shaver and the cleaning center. 8 Q. As to the first function in the second 9 generation device how is the shaver supported in the 10 cleaning center? 11 A. We expanded the cradle so that the cradle 12 replaces the function of the dome. 13 Q. So do you mean when you say expanded the 14 cradle, did you make the cradle deeper? 15 A. I would say that the cradle became a little 16 higher. 17 Q. That's what I mean; you have got the X, Y, 18 and Z axis, so it moved up in the Z axis? 19 A. Yes. 20 Q. That's what I meant. 21 A. And the cradle does not necessarily consist 22 only of one part. 23 Q. When you say the cradle doesn't consist of 24 just one part, what are you thinking of?</p>	<p style="text-align: right;">Page 135</p> <p>1 Q. Did anyone else work on the concept aside 2 from Mr. Wolf? 3 A. Yes, Mr. Kleeman. We also had him already, 4 and Wolf has a team, just like I have a team. 5 Q. Do you know who is on Wolf's team? 6 A. I know most of them, but could not, like I 7 did yesterday, put a list together of the names of 8 the people, because I know them because I see them. 9 I don't come up with just the right names. 10 Q. Am I correct then too you wouldn't know who 11 in that group works on the cleaning center and who 12 does not? 13 A. I know that the project manager is Mr. 14 Kleeman, but I don't know who helps him. 15 Q. Did you ever -- in designing the cleaning 16 center did you ever consider sealing any portion of 17 the cradle to alleviate evaporation of cleaning 18 fluid? 19 A. Yes. 20 Q. Did you ever implement that idea or ideas? 21 A. No. 22 Q. Why did you not implement that idea? 23 A. Because it would have -- it would have 24 unnecessarily made the product more complex, and it</p>
<p style="text-align: right;">Page 134</p> <p>1 A. The cradle consists of several parts that 2 have been mounted together. 3 Q. What are the parts of the cradle that you 4 are thinking of? 5 A. The part which became higher that went 6 beyond the housing of the cradle. 7 Q. Okay. I understand. So is that a molded 8 plastic part? 9 A. Yes. 10 Q. Which individual, or individuals, came up 11 with the idea to take the dome out of the second 12 generation product? 13 A. The design of the product, the concept of 14 the product, was developed by myself, was done by 15 myself, in the very beginning. At that point the 16 dome was already taken out without having a 17 technical solution at hand. 18 Q. So did someone then take your idea and 19 implement it, or implement the solution? 20 A. At one point in time I gave the product to 21 my colleague Wolf, and he then pursued the idea. 22 Q. I think we have talked about Mr. Wolf 23 before. 24 A. Yes.</p>	<p style="text-align: right;">Page 136</p> <p>1 wasn't necessary to do that. 2 Q. How did you consider -- or what part of the 3 cradle did you consider sealing? 4 A. So it would be very important at this point 5 to clarify what exact part we are talking about. I 6 was talking about the part within the cradle where 7 the shaver is inserted to. 8 Q. I think that is what we are talking about, 9 where you put the shaver in upside down, so I guess 10 my question is then -- or how did you consider 11 sealing the cradle? 12 A. Well, there was the reflection, the idea, to 13 use a thin rubber layer, rubber lip, which then 14 covers the shaver, the area around the shaver, but 15 this doesn't make any sense, because then the drying 16 procedure would take enormously -- enormous amount 17 of time. 18 Q. I understand. So when you say the rubber 19 lip, when I say a wet suit, you know what I mean by 20 wet suit? 21 A. Yes. 22 Q. So would this rubber lip operate, when you 23 stuck the shaver in, something like a wet suit, 24 where the rubber would form -- when you inserted the</p>

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1 cradle in, then the rubber would then form around
2 the shaver head?
3 A. Around the body of the shaver beyond the
4 shaving head.
5 Q. Do you remember when that idea was
6 considered?
7 A. I need to give some more explanations.
8 Q. Sure.
9 A. At the very beginning when I started
10 developing the cleaning center, one of the main
11 problems I encountered was the evaporation of the
12 alcohol out of the cartridge, and, related to this,
13 the lifetime of the cartridge, so I made lots of
14 analyses, or examinations, in order to reduce the
15 evaporation from the cartridge, or liquid container,
16 or the receiver containing the liquid.
17 Q. How did you ultimately solve the problem,
18 or -- well, I guess you can't solve the problem of
19 evaporation. How did you ameliorate the problem of
20 evaporation?
21 A. Not at all.
22 Q. So does the problem still -- well, does the
23 issue of evaporation still exist as you encountered
24 it when you began working on the project?

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1 A. The problem was solved in a way, because we
2 changed the requirements of the product.
3 Q. And how were the requirements of the product
4 changed?
5 A. When I started working on the project the
6 description was such that the recipient, or the
7 container, should be filled in order to allow 60
8 cleaning cycles, and after I understood the entire
9 product I was able to reduce the cycle number to 30.
10 Q. Okay.
11 A. And at that point the evaporation doesn't --
12 it doesn't -- it's no problem anymore, because then
13 the number of the cycles with the evaporation over
14 24 hours, they are in sync.
15 Q. If you could look then back to the 30(b)(6)
16 notice, which is, I believe, Exhibit 49. Are you
17 prepared to testify regarding the nexus between the
18 secondary considerations of non-obviousness
19 identified in Braun's response to Interrogatory
20 Number 5 and the alleged inventions of the patents
21 in suit?
22 A. Yes.
23 Q. Have you reviewed Braun's response to
24 Rayovac's Interrogatory Number 5?

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1 A. Company Braun or Mr. Braun?
2 Q. Company. Have you seen this interrogatory
3 response before?
4 A. This?
5 Q. Yes.
6 A. I saw it yesterday the first time.
7 Q. Have you reviewed it?
8 A. In broad lines, but the English language
9 which is used is very complicated, and I cannot say
10 that I understand it.
11 Q. I'll ask some questions about it and see.
12 In the middle of this answer it states, With regard
13 to long-felt need, no other commercial product
14 existed in the dry shaver industry capable of easily
15 cleaning the shaving head of a dry shaver, and,
16 so -- well, you can translate that. My question
17 then after that is, Isn't it correct that prior to
18 the introduction of Braun's cleaning center Philip's
19 introduced a liquid cleaning system for shaving
20 heads?
21 ATTY. PATTON: Object to the form of the
22 question. You can answer the question if you
23 understand.
24 A. It's complicated, so I'm going to first give

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1 an answer to what I understood. Yes, since very
2 long time there is need on the market to clean
3 shavers in a reasonable way, and there is a Philip's
4 cleaning system which operates with a liquid, but
5 that was absolutely unsuccessful. That's it.
6 Q. Well, you also stated earlier that you have
7 reviewed documents from the files of Mr. Messinger,
8 correct?
9 A. Yes.
10 Q. And he had compiled information regarding
11 systems for cleaning shavers?
12 A. Right.
13 Q. At one point at least, at least in the
14 sixties, there was a clean system which was called
15 Shavair?
16 A. As far as I recall there was a shaver which
17 had the name Shavair.
18 Q. Wasn't there a cleaning system for the
19 Shavair too?
20 A. As far as I recall this is a shaver which is
21 washable.
22 Q. It states in the next sentence, and I'll
23 just read it, and then I'll ask my question, it
24 says, Prior to the patented inventions cleaning of

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1 the shaving head of a dry shaver was accomplished by
2 manually brushing debris from the shaver head or by
3 disassembly of the shaver head and placement of the
4 cutter in a beaker which could be shaken. My
5 question is, That statement isn't quite accurate, is
6 it?
7 THE INTERPRETER: Could I see that
8 sentence so I could translate that?
9 ATTY. PATTON: Again I object to the
10 form of the question.
11 MR. HOESER: Should I answer?
12 ATTY. PATTON: Yes, you may answer.
13 A. My answer to this evaluation from my
14 perspective is this is a statement which reflects
15 the systems which were successful, only the systems
16 which were successful, which were successfully
17 marketed.
18 Q. So this statement is saying that prior to
19 the patented inventions there were no commercially
20 successful cleaning systems on the market; is that
21 right?
22 ATTY. PATTON: Object to the form of the
23 question.
24 A. As far as I know that is the case.

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1 Q. I guess I want to understand Braun's
2 position on long-felt need. I guess, is it Braun's
3 position on long-felt need that there was a
4 long-felt need for a commercially successful
5 cleaning system or just a liquid cleaning system in
6 general?
7 ATTY. PATTON: Again I object to the
8 form of the question. You may answer.
9 A. The commercial need of a product always
10 bases itself on the practical aspect of the product,
11 so in order to be commercially successful that's the
12 underlying basis.
13 Now Braun's goal was to have a system in
14 place which dramatically simplifies the way to clean
15 the shaver without burden the user.
16 Q. Am I correct that Braun's goal was to create
17 a cleaning system in which the user simply -- well,
18 was it Braun's goal to create an automatic cleaning
19 system; was that the aim?
20 A. Well, I would say that this is a level
21 beyond what you just said, because we were looking
22 for a product which is at the same time convenient,
23 which has a good cleaning performance, and which
24 helps the shaver and does not work against the

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1 shaver.
2 THE INTERPRETER: In the last sentence I
3 said the shaver; the shaver is the person who
4 shaves.
5 Q. When you say it doesn't work against the
6 user, are you talking about, for example, the
7 cleaning fluid affecting the person's skin?
8 A. No. I mean in order to improve the quality
9 of life of the user.
10 Q. I see, I see.
11 A. This beaker which you have to shake, that
12 forces the consumer to take all the parts and put
13 them into this liquid, and so that is not what we
14 want; we wanted to make life easier for the user of
15 the equipment.
16 Q. Let me follow up on that question. The
17 shaking beaker, that was a product that was
18 commercially sold by Braun, correct?
19 A. Yes.
20 Q. And when was that product sold?
21 A. In the seventies, eighties, maybe in the
22 early nineties.
23 Q. Have you seen any documents which describe
24 the shaking beaker for shaving heads?

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1 A. I didn't see the documents; I saw the
2 product.
3 Q. Do you know if there exists documents
4 describing the shaking beaker for shaving heads?
5 A. No.
6 Q. Do you know who I should ask whether
7 documents exist regarding the shaking beaker for
8 shaving heads?
9 A. No.
10 Q. Stepping back then to long-felt need,
11 long-felt need identified in Interrogatory Number 5,
12 what documentary evidence does Braun possess which
13 shows the long felt need for the patented invention?
14 A. I am sure that results of a market research
15 study exists, and there is then definitely the
16 triangle from Braun to find the solution to problem
17 -- one of the problems which obviously is a problem
18 because you need to clean the dirt. I mean this is
19 proven by market analysis. There constantly is
20 studies done to find solution for example to improve
21 or to change the brush, and then there are
22 washability tests which are performed since tens of
23 years, since decades, by our competition.
24 Q. Were the washability tests performed by

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1 Braun or by the competition?
2 A. The word test isn't accurate. What I mean
3 to say is that they launch products on the market
4 which are washable.
5 Q. Have you seen documents regarding the
6 washable products?
7 A. The Messinger files are the documents, but
8 the products, and also with the years relating to
9 the product, they are available at Braun.
10 Q. Where would they be available?
11 A. We have a kind of museum in our lab, and so
12 there you find all the shavers which you can
13 possibly imagine.
14 Q. These prototypes, are these physical devices
15 or are there actual paper discussions of --
16 A. No, the real apparatus.
17 Q. So you, personally, I guess you have seen,
18 for example, the washable shavers from, I guess, the
19 past and other devices of that sort?
20 A. Yes.
21 Q. When was that? Do you know how long that
22 museum has been in existence?
23 A. Since 1950.
24 Q. It's been these -- so those products have

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1 been accumulating --
2 A. Yes.
3 Q. -- since then? Is this museum open to
4 anyone? Can anyone come and take a look at it, or
5 -- no, that's a bad, horrible question. Is it open
6 to any employee at Braun to take a look at the
7 museum?
8 A. No.
9 Q. Is it available to the Legal Department at
10 Braun to take a look at the devices kept in the
11 museum?
12 A. Only if they ask.
13 Q. Have you ever seen the attorneys?
14 A. I don't recall. Just to add the following
15 detail, some of the products which you see there,
16 some of the apparatus originate from Mr. Klauer.
17 Q. Which products would have originated from
18 Mr. Klauer?
19 A. I don't know.
20 Q. Do you know how you would find out which
21 products originated from Mr. Klauer?
22 A. I don't know. No way.
23 Q. I guess my question might have sounded like
24 I was asking you do you know all the products that

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1 came from Mr. Klauer. Do you know any of the
2 products which came from Mr. Klauer?
3 A. At the time when Mr. Klauer was still
4 working for Braun, he had in his office a collection
5 of shavers of the competition, and as far as I know,
6 we took the collection over when the Mr. Klauer
7 died, and I take it that some of the apparatus
8 existed twice, so we only kept the ones which we
9 didn't have already.
10 Q. You mention, and I guess I won't mark it,
11 maybe I'll mark it later, on your time line you
12 mention an ultrasonic cleaning bath for shavers?
13 A. Yes.
14 Q. Was that a device which would have been in
15 the office of Mr. Klauer?
16 A. If you are talking about the Philips shaver,
17 the Philips shaving cleaner which Mr. Klauer had, he
18 had one, but he gave that to me. That's why I have
19 2 in my office.
20 Q. The Philip's cleaner is from the nineties,
21 correct?
22 A. Yes.
23 Q. There is also maybe --
24 ATTY. PATTON: When you find a

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1 convenient place --
2 ATTY. SHIMOTA: Why don't we just go do
3 that now.
4 ATTY. PATTON: -- I'd appreciate a
5 brief recess.
6 ATTY. SHIMOTA: No problem.
7 THE VIDEOGRAPHER: Off the record 9:22
8 a.m.
9 (Recess taken.)
10 THE VIDEOGRAPHER: Back on the record
11 9:30 a.m.
12 Q. As I said, I'd like to mark as Defendant's
13 Exhibit number 67 a document bearing the Bates range
14 B 2043 to B 2047, which is a document that I believe
15 you prepared.
16 (Document marked as Exhibit 67
17 for identification.)
18 A. That's correct.
19 Q. Why did you prepare this document?
20 A. My duty as a project manager was to sell the
21 product for Braun, the company, in Braun -- I mean,
22 within, Braun, and so I took all the information,
23 the historic details I had, and I put them together
24 so that they would be presentable.

8 (Pages 145 to 148)

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<p style="text-align: right;">Page 149</p> <p>1 Q. To whom -- this isn't the first time you 2 presented this time line, is it. 3 Let me reask the question. That was a 4 bad question. You generated this time line, or at 5 least a first version of it, in the year 2000, 6 correct? 7 A. No. 8 ATTY. SHIMOTA: I'd like to mark as 9 Defendant's Exhibit No. 69 -- and I went out of 10 order again, there will be a 68 -- the document 11 bearing the Bates range of B 2371 to B 2402, which 12 has the German and English translations, and I'll 13 ask you if you recognize this document. I'm going 14 to direct your attention specifically to B 2377. 15 Does this refresh your recollection that you would 16 have generated your time line in approximately March 17 of 2000. 18 (Document marked as Exhibit 69 for 19 identification.) 20 A. This is one of many presentations I gave 21 where I used this time line, but it is not the first 22 one. 23 Q. So when is the first? When did you first 24 generate the time line?</p>	<p style="text-align: right;">Page 151</p> <p>1 cleaning by rinsing with water, cleaning box/pan, 2 cleaning wet and/or dry; do you see that? 3 A. Mm-mm. 4 Q. What is referred to by the cleaning box or 5 pan? 6 A. I can't recall the cleaning box as such. I 7 assume that it was a type of shaking beaker. 8 Q. Do you know if there are any documents from 9 which one could determine what the cleaning box was? 10 A. Only the Messenger files. 11 Q. Further along the time line in 1960 there is 12 referred to an ultrasound bath/customer service; 13 what was the ultrasound bath? 14 A. It's a metal box about this size 15 (indicating) where dirty cutting parts are put into 16 a liquid and they are then cleaned using ultrasound. 17 Q. So what did this device -- where was the -- 18 what did the receptacle for the cutting parts look 19 like in this ultrasound bath? 20 A. This happened within the customer service 21 department, the customer has separate small baskets 22 or containers, and the same procedure still exists 23 today. 24 Q. So this ultrasonic cleaning device still</p>
<p style="text-align: right;">Page 150</p> <p>1 A. The history with respect to the shaving 2 cleaning was generated by me approximately in 1996, 3 so and then I added the information I gathered later 4 on to what I already had. 5 Q. What information was in your original 1996 6 time line? 7 A. Until approximately 1995. 8 Q. So everything prior to that time would have 9 been your '96 time line? 10 A. Yes. 11 Q. Did anyone assist you in gathering the 12 information reflected in the time line? 13 A. No. 14 Q. Did you receive any of the information from 15 any other Braun employee? 16 A. No. 17 Q. So where did -- was this -- well, where did 18 you get the information reflected on the time line? 19 A. Practically all the information originates 20 in the Messenger files. 21 Q. You can look on either document, the German 22 or the original. On the first page I guess, I guess 23 B 2377, I guess you look at your -- the one from 24 2000. There is referred to in approximately 1960</p>	<p style="text-align: right;">Page 152</p> <p>1 exists at Braun? 2 A. Yes. 3 Q. And so I assume there are documents which 4 would illustrate how this device operates? 5 A. I assume the same thing. 6 Q. Have you ever seen these documents? 7 A. No. 8 Q. Is this ultrasound cleaning device something 9 that Braun manufactures internally or is it 10 purchased from a third party? 11 A. I mean, generally we purchase this item from 12 a catalog, and this is only a help means for the 13 repair person, because the repair person needs, 14 prior to repairing the shaver, being in a position 15 where he can clean the shaver. 16 Q. So you clean -- the repair people clean 17 first and then they repair second? 18 A. Second. 19 Q. I just want to make sure I was understanding 20 you. The cradle in this ultrasonic cleaning device 21 is a basket into which shaving heads are placed; is 22 that right? 23 ATTY. PATTON: Object to the form of the 24 question.</p>

9 (Pages 149 to 152)

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1 A. Yes.
2 Q. How is the fluid -- or how does fluid enter
3 this ultrasonic cleaning device?
4 A. Well, there is a beaker which contains about
5 5 liters, you go to the faucet, you put a little bit
6 of detergent in there, I mean dishwashing soap, and
7 that's it, you fill it.
8 Q. So you fill up -- I'm trying to think.
9 A. It looks like an aquarium. It doesn't look
10 like an aquarium, it is like an aquarium, because it
11 is metal.
12 Q. In this ultrasonic cleaning device how are
13 -- or how does -- how are the shaving heads dried
14 following cleaning?
15 A. The person removes the basket out of the
16 liquid, this basket consists out of mesh, wire mesh,
17 and then he covers the basket using his hand, and he
18 uses the pressured air to dry it.
19 Q. So is he using a blower essentially?
20 A. Yes.
21 Q. Was that process of drying in place in
22 the -- I guess around 1960, drying off the basket
23 with a blower?
24 A. I don't know. I can't answer that question.

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1 Q. Do you know -- well, if you had to find out
2 how this ultrasonic cleaning device operated, do you
3 know the name of an individual at Braun that you
4 would ask?
5 A. I would go to the laboratory, because there
6 you have all the information -- oh, they have the
7 apparatus.
8 Q. Do you know the name of any particular
9 individual in the laboratory whom you have seen
10 operating this apparatus?
11 A. I know myself.
12 Q. You do it? You have operated the device or
13 you know the name?
14 A. No, I operated the apparatus myself.
15 Q. And this apparatus is in your laboratory?
16 A. Yes.
17 Q. Is there an instruction manual with this
18 device?
19 A. I can only assume.
20 Q. Well, when was the first time you operated
21 this device?
22 A. I don't recall.
23 Q. Was it -- where is this device now. Is it
24 in the laboratory?

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1 A. Yes.
2 Q. Was it in the laboratory when you came to
3 Braun in 1995?
4 A. Certainly.
5 Q. Do you know -- do you know whether this
6 device has been replaced -- well, is this the
7 original device -- let me rephrase. Do you know how
8 long that device has been in the laboratory or in
9 your laboratory area at Braun?
10 A. No.
11 Q. Do you know whether there would be records
12 from which one could ascertain when the particular
13 device in your laboratory was purchased?
14 A. You are talking about the apparatus, right?
15 Q. Yes, that's correct.
16 A. No.
17 Q. Do you know the manufacturer of the
18 apparatus?
19 A. No.
20 Q. You said you assume there is an instruction
21 manual for the apparatus; why do you assume that?
22 A. Because that is dangerous.
23 Q. Where -- well, do you know where Dr. Pahl
24 and Mr. Braun worked prior to your coming to --

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1 well, their location in Braun prior to your coming
2 to the -- be employed by Braun?
3 A. Mr. Braun was sitting at exactly the same
4 desk as I sit myself in '95.
5 Q. And is the ultrasonic cleaning device which
6 we have been discussing -- can you see that from
7 your desk?
8 A. No.
9 Q. How far is it from your desk?
10 A. 20 meters.
11 Q. I'm going to show my real ignorance. Do you
12 know what that approximates into into feet?
13 A. 60 feet.
14 Q. Do you know whether Mr. Braun ever used the
15 ultrasonic cleaning device?
16 A. No.
17 Q. Can you turn to the next page of the time
18 line. You can use whatever version you would like.
19 There are several entries at the bottom which
20 describe a cleaning with water. Do all these
21 entries refer to essentially taking the shaver and
22 washing it under a tap.
23 A. Yes.
24 Q. You see also on there -- do you see also on

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<p style="text-align: right;">Page 157</p> <p>1 there there is listed, it says first -- 2 approximately 1990, first prototype/Dr. Brown/Dr. 3 Pahl? 4 A. Yes. 5 Q. And that information would have been 6 reflected on the time line as you originally created 7 it in 1996; is that right? 8 A. Yes. 9 Q. And why did you believe in 1996 that the 10 first prototype was created approximately in 1990? 11 A. This was a guess of mine. The purpose of 12 this was not to find the accurate year where this 13 item was created, it was just to give an approximate 14 idea. 15 Q. Did you ever ask Mr. Klauer when the first 16 prototype was created? 17 A. I don't recall. I don't think so. 18 Q. Do you know -- I'm going to switch gears for 19 just a second, but let me take a step back. We 20 talked about conception and reduction to practice 21 date yesterday; do you remember that? 22 A. Yes. 23 Q. Do you know whether Mr. Klauer had any 24 information regarding the conception and reduction</p>	<p style="text-align: right;">Page 159</p> <p>1 asked Mr. Pahl or Dr. Braun -- no, Dr. Pahl or Mr. 2 Braun regarding the conception and reduction to 3 practice dates of the inventions of the patent in 4 suit? 5 A. I don't know. 6 Q. If you see, also again looking at your time 7 line, there is listed thesis for diploma cleaning 8 station Braun/FH Ffm? 9 A. Yes. 10 Q. Can you describe for me briefly what you 11 mean by the thesis for diploma? 12 A. We had, at the time, a student at Braun who 13 wrote his diploma thesis. 14 Q. And how did you come to learn of this 15 thesis? 16 A. Well, I refer to documents I received from 17 Mr. Schaefer, and there were one to 2 pages in this 18 documents where there was the explanation -- where 19 the description was given about the composition of 20 beard dust, the dust which is produced by -- 21 Q. The particle size, for example, of beer 22 dust? 23 A. Yes. 24 Q. Did you ever see the entire thesis or just</p>
<p style="text-align: right;">Page 158</p> <p>1 to practice dates of the inventions of the patents 2 in suit? 3 A. I don't know that. 4 Q. And do you know whether -- do you know 5 whether Mr. Klauer provided any information 6 regarding conception or reduction to practice dates 7 to lawyers in the United States? 8 A. I don't know that. 9 Q. Do you know whether the lawyers in the 10 United States had any information regarding the 11 conception or reduction to practice dates -- well, 12 let me distinguish a second here. I'm not talking 13 about your counsel today, I'm talking about lawyers 14 in the United States who prosecuted the patents and 15 who handled the prosecution of the patents in suit 16 in the United States. 17 A. I don't know. 18 Q. I didn't ask the question, but my question 19 is, Do you know whether the lawyers in the United 20 States to which I referred had any information 21 regarding conception and reduction to practice? 22 A. I don't know. 23 Q. And I'm not talking again about your current 24 counsel today, but do you know whether any lawyers</p>	<p style="text-align: right;">Page 160</p> <p>1 the 2 pages? 2 A. Then I got the whole diploma thesis. 3 Q. From whom did you get the entire thesis? 4 A. From Mrs. Abraham. 5 Q. So it was retained in -- do you know where 6 Mrs. Abraham got the thesis? 7 A. From the person who wrote the thesis. 8 Q. Did the person who wrote the thesis, did he 9 work at Braun? 10 A. No. 11 Q. So she contacted him -- or let me make sure. 12 He wasn't an employee of Braun when you requested 13 the thesis? 14 A. No. 15 Q. Do you know if he was ever an employee of 16 Braun? 17 A. Not as far as I know. 18 Q. Do you know if the thesis was kept in the 19 archives anywhere at Brown? 20 A. Yes. Mrs. Abraham is in charge of the 21 management of the archives. 22 Q. So she asked the student for it, and then 23 she put it in the archives? 24 ATTY. PATTON: Object to the form of the</p>

11 (Pages 157 to 160)

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<p style="text-align: right;">Page 161</p> <p>1 question.</p> <p>2 A. No.</p> <p>3 Q. Well, how did the thesis come to reside at</p> <p>4 Braun when you asked for it, to the extent you know?</p> <p>5 A. All the diploma theses are centrally</p> <p>6 collected.</p> <p>7 Q. Where are they centrally collected?</p> <p>8 A. In Mrs. Abraham's department.</p> <p>9 Q. Is it a regular occurrence that students</p> <p>10 work with Braun in conjunction with receiving their</p> <p>11 thesis -- writing their thesis?</p> <p>12 A. Yes.</p> <p>13 Q. And when a student completes his thesis, is</p> <p>14 it regularly then provided to Braun?</p> <p>15 A. That is the propriety of Braun.</p> <p>16 Q. So once this particular thesis we are</p> <p>17 talking about was written, it was then given to</p> <p>18 Braun?</p> <p>19 A. Yes.</p> <p>20 Q. Did you ever discuss this particular thesis</p> <p>21 with Mr. Klauer?</p> <p>22 A. No.</p> <p>23 Q. Do you know whether Mr. -- if Mr. Klauer</p> <p>24 provided any assistance in the creation of the</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. Do you know if that report still exists</p> <p>2 today?</p> <p>3 A. Yes.</p> <p>4 Q. How do you know it still exists today?</p> <p>5 A. If I recall well, I do have this report.</p> <p>6 Q. Did you provide that report to the attorneys</p> <p>7 in connection with this litigation?</p> <p>8 A. No.</p> <p>9 Q. Did the lawyers ask you for that, the first</p> <p>10 Fresenius report?</p> <p>11 A. No.</p> <p>12 Q. With respect to the second Fresenius report</p> <p>13 listed on this time line, do you know -- well, can</p> <p>14 you describe that -- well, can you describe the</p> <p>15 length of that document to me?</p> <p>16 A. Somewhere between 50 and 100 pages.</p> <p>17 Q. And in both of these reports it says that</p> <p>18 they are comparing different cleaning methods; is</p> <p>19 that correct?</p> <p>20 A. Correct.</p> <p>21 Q. Actually, let me take one step back. Do you</p> <p>22 know whether the report concerning the second</p> <p>23 Fresenius study exists today?</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 162</p> <p>1 thesis written on your time line?</p> <p>2 A. I don't know that.</p> <p>3 Q. Do you know whether Braun ever attempted to</p> <p>4 pursue any patent protection with respect to the</p> <p>5 work identified in -- or the work reflected in the</p> <p>6 thesis?</p> <p>7 A. I don't know.</p> <p>8 Q. Have you ever met or spoken with the author</p> <p>9 of the thesis?</p> <p>10 A. No.</p> <p>11 Q. On your time line there is listed a number</p> <p>12 of studies by, I guess it's Fresenius?</p> <p>13 A. Yes.</p> <p>14 Q. There were written reports generated by</p> <p>15 Fresenius that were transmitted to Braun?</p> <p>16 A. Yes.</p> <p>17 Q. And have you seen these written reports?</p> <p>18 A. Yes.</p> <p>19 Q. And how -- well, I guess how many reports</p> <p>20 are there in total from Fresenius?</p> <p>21 A. With respect to the first study, which</p> <p>22 happened in 1994 approximately, there is one report.</p> <p>23 Q. And how large is that report?</p> <p>24 A. 3, 4, 5 pages.</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. And how do you know that it exists today?</p> <p>2 A. I assume that I have it.</p> <p>3 Q. And did you provide that report to the</p> <p>4 attorneys?</p> <p>5 A. No.</p> <p>6 Q. It say both of these reports, again, are</p> <p>7 comparing different cleaning methods?</p> <p>8 A. That's correct.</p> <p>9 Q. What criteria was used to compare the</p> <p>10 different cleaning methods?</p> <p>11 A. In both cases the hygiene of the shaver</p> <p>12 after the cleaning was compared.</p> <p>13 Q. Do you recall the results of the -- these --</p> <p>14 well, do you recall the results of the studies?</p> <p>15 A. Yes.</p> <p>16 Q. And what were the results?</p> <p>17 ATTY. PATTON: You may answer.</p> <p>18 A. Mainly the hygiene, I can state, of the</p> <p>19 apparatus was compared after washing it with water</p> <p>20 or with the cleaning center. That happened in the</p> <p>21 second study.</p> <p>22 Q. So that was in the second study; what was</p> <p>23 compared in the first study?</p> <p>24 A. In the first study the wet cleaning was</p>

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<p style="text-align: right;">Page 165</p> <p>1 compared with the cleaning with a brush. 2 Q. What was the result -- well, what were the 3 results in general? I mean, how were the -- how 4 were the different cleaning methods rated, or were 5 they rated? 6 A. The result was that in all of the cases the 7 cleaning which was performed with the cleaning 8 center was the most hygienic. 9 Q. I assume Braun asked Fresenius to conduct 10 these studies; is that correct? 11 A. Yes. 12 Q. Did Braun ask Fresenius to conduct these 13 studies? 14 A. In the first study arguments against 15 washability were looked for. 16 Q. Were there any arguments against 17 washability? 18 A. Yes. 19 Q. And what were the arguments against 20 washability? 21 A. Cleaning the shaver with water makes the 22 shaver very humid, which leads to the growth of 23 bacteria, which leads to a very unhygienic state of 24 the shaver, and this leads to the fact that the</p>	<p style="text-align: right;">Page 167</p> <p>1 Q. I understand. 2 A. You get something wrong. 3 Q. Why was odor not a problem with respect to 4 the cleaning center? 5 A. Because of alcohol. 6 Q. So alcohol inhibits the growth of the 7 bacteria? 8 A. Correct. 9 Q. Aside from the studies that Braun had 10 requested that Fresenius perform, did Braun ever 11 request any other studies from third parties with 12 respect to the cleaning center project? 13 A. Yes. 14 Q. From whom did Braun request studies? 15 A. TUV Rheinland. 16 THE VIDEOGRAPHER: Here ends tape No. 4. 17 Off the record. 10:16 a.m. 18 (Off the record.) 19 THE VIDEOGRAPHER: Here begins Videotape 20 No. 5 in this deposition of Juergen Hoerer. Back on 21 the record 10:24 a.m. 22 Q. I'd like to take you back to topic number 23 16, which is a response to Interrogatory Number 5. 24 In Interrogatory Number 5 one of the secondary</p>
<p style="text-align: right;">Page 166</p> <p>1 shaver smells bad. 2 Q. Was that -- or was the problem with the 3 growth of the bacteria and the odor a problem that 4 you had to work on in order to eventually market the 5 cleaning center? 6 A. Yes. 7 Q. And how did you solve that problem? 8 A. With the cleaning medium. 9 Q. So you, I guess you had to -- is it fair to 10 say you needed to experiment with different cleaning 11 fluids in order to overcome the odor issue? 12 ATTY. PATTON: I object to the form of 13 the question. 14 A. No. 15 Q. Well, when you started at some point you 16 became aware that odor was an issue with respect to 17 the operation of the cleaning center; is that 18 correct? 19 A. No. 20 Q. I think we were discussing the fact that 21 odor could be a problem if bacteria were allowed to 22 grow on the shaver; is that right? 23 A. Yes, but not in the case of cleaning center, 24 only in the case of washability.</p>	<p style="text-align: right;">Page 168</p> <p>1 considerations of non-obviousness identified is the 2 commercial success of the cleaning center? 3 A. That's correct. 4 Q. My question is what features of the cleaning 5 center make it successful, make it commercially 6 successful? 7 A. You use the present tense in your question. 8 Q. Do you believe that the cleaning center that 9 Braun sells is commercially successful? 10 A. The cleaning center started with the size of 11 250,000 plant units per year, and at the points 12 where we sold the most, we certainly sold somewhere 13 around 1.5 million, so that's 5 to 6 times more than 14 initially planned, and that, for me, is successful. 15 Q. And what features of the cleaning center 16 made it commercially successful? 17 A. From my perspective there is only one 18 feature which made it that successful, and that's 19 convenience. 20 Q. What about the cleaning center -- what makes 21 it -- what features make the cleaning center 22 convenient? 23 A. The feature fire and forget, where you just 24 simply plug the shaver --</p>

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1 MR. HOESER: -- put the shaver in, press
2 the button, and go away.
3 A. It's called fire and forget.
4 Q. Does the location of the cleaning fluid
5 below the cradle contribute to the commercial
6 success of the cleaning center?
7 A. Yes.
8 Q. And why is that?
9 A. Because that's the best possible way to
10 regroup the elements to get the highest efficiency
11 with the least direct cost.
12 Q. Why is that the most efficient?
13 A. Because it's only one pump, and without
14 using vents I have one liquid circuit --
15 MR. HOESER: -- by using the physical
16 effect.
17 THE INTERPRETER: -- if you use all the
18 physical effect.
19 Q. Does the dome contribute to the commercial
20 success of the cleaning center?
21 A. No.
22 Q. Does the fact that the cradle is not sealed
23 contribute to the commercial success of the product?
24 A. Do you mean now again to where it's -- I

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1 mean it's towards the shaver, sealed towards the
2 shaver?
3 Q. Well, you had taken a look at the claim
4 language, correct, in the past? Maybe I'll just
5 direct you to what I'm asking about. Look at claim
6 14 of the 3208 patent, and it's in claim 14 in the
7 second element in the second clause. It says, said
8 cradle structure being permanently open to
9 atmosphere.
10 My first question is -- it's a
11 statement -- in Braun's commercial product, is the
12 cradle structure permanently open to the atmosphere?
13 A. Yes.
14 Q. And does the fact that the cradle structure
15 is permanently open to the -- or does the fact that
16 the cradle structure is permanently open to the
17 atmosphere contribute to the commercial success of
18 the product?
19 A. Yes.
20 Q. And in what way does it contribute to the
21 commercial success of the product?
22 A. Because of the daily loss of liquid the
23 cartridge empties at that point in time when it
24 also, from the hygienic prospective, isn't good to

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1 use anymore.
2 Q. How does the fact that the cradle structure
3 is open to the atmosphere avoid the loss of fluid?
4 A. It isn't avoided, it is stimulated.
5 Q. So you lose more fluid as a result of having
6 the cradle structure being open to the atmosphere?
7 A. Yes.
8 Q. And why is that a good thing?
9 A. It's very complicated to explain this.
10 Q. Well, you want to -- Braun would like to
11 retain -- well, you, at least I would assume, you
12 want to retain as much cleaning fluid as possible in
13 the cartridge; is that correct?
14 A. No, that's not right.
15 Q. Can you give me one reason why you would
16 want to increase the loss of cleaning fluid?
17 ATTY. PATTON: I object to the form of
18 the question.
19 A. Maybe you can rephrase that question.
20 Q. Well, you said the answer to one of my
21 previous questions of why that's a good thing is the
22 answer is complex and my question -- or I guess my
23 question is can you give me any of the reasons why
24 it's a good thing.

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1 ATTY. PATTON: Same objection.
2 A. Maybe there is a misunderstanding at this
3 point. If we would close the cradle today, then we
4 would have to set all the parameters again. You
5 would have to renew the settings of the parameters.
6 Q. What parameters would have to be renewed?
7 A. Now we have an optimal relation between the
8 volume of the cartridge, the loss per cleaning
9 cycle, and the loss caused by evaporation over 24
10 hours.
11 Q. So the reason that -- or the reason that
12 evaporation is a good thing is that the parameters
13 are set; is that correct?
14 ATTY. PATTON: I object to the form of
15 the question.
16 A. I correct this. The evaporation is not
17 good, but it fits now in an optimal way within the
18 complete system.
19 Q. Why does it fit in an optimal way?
20 A. It's difficult for me to explain now 5 years
21 of development.
22 Q. Is it correct as a result of evaporation the
23 consumer needs to buy more cartridges?
24 A. No.

14 (Pages 169 to 172)

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<p style="text-align: right;">Page 173</p> <p>1 Q. And that's because you set the replacement 2 time at 30 days as opposed to 60 days as discussed 3 earlier? 4 A. Yes. 5 Q. Is the cleaning center commercially 6 successful because a particular type of drying 7 device is used? 8 A. Yes. 9 Q. And why is that? 10 A. Because of the drying the alcohol is as fast 11 as possible removed from the lacquered parts of the 12 plastic material, and because of this the plastic 13 material is maintained. I mean, it's more durable. 14 Q. Is the commercial success of the cleaning 15 center tied in any way to the use of a fan as 16 opposed to a different type of drying device? 17 A. What do you understand here by commercial 18 success? 19 Q. You are here to speak about Interrogatory 20 Number 5, so I want what you believe, for you to use 21 your understanding of commercial success. 22 A. For the client it doesn't make any 23 difference if we dry the shaver using a fan or 24 inductively. For us, because we want to sell the</p>	<p style="text-align: right;">Page 175</p> <p>1 A. Yes. 2 Q. And did you reject that idea? 3 A. Yes. 4 Q. And was that because that procedure would be 5 less convenient than using the cartridge? 6 A. Yes. And because then the client is in a 7 position where he could use a liquid which is not an 8 appropriate liquid. 9 Q. He could, for example, just pour water in 10 there? 11 MR. HOESER: Or whiskey. 12 ATTY. SHIMOTA: Or whiskey. I got you. 13 Q. Aside from long-felt need and the commercial 14 success is Braun relying upon any other secondary 15 considerations of non-obviousness for the patents in 16 suit? 17 ATTY. PATTON: I object to the form of 18 the question. 19 A. I did not understand the question. 20 Q. Do you have the response in front of you to 21 Interrogatory Number 5? As Braun's corporate 22 designee, with respect to the response to 23 Interrogatory Number 5, sitting here today is there 24 anything which needs to be added by way of</p>
<p style="text-align: right;">Page 174</p> <p>1 product, the fan is, from a technical point of view, 2 the easiest solution. 3 Q. So from a consumer point of view it makes no 4 different, though, right? 5 A. Yes. The only thing that matters for the 6 consumer is that it dries fast. 7 Q. Is the cleaning center commercially 8 successful because of the replaceable cartridge? 9 A. Yes. 10 Q. And why is that? 11 A. Because the cartridge supports in an optimal 12 way the convenience. 13 Q. Take it out, throw it away, put a new one 14 in? 15 A. Fire and forget. 16 Q. Did you ever consider designing the cleaning 17 center such that cleaning fluid would be poured in 18 and then dumped when it was finished? 19 Let me rephrase the question. It was 20 bad. Did you ever consider designing the cleaning 21 center such that cleaning fluid would be poured in 22 at the beginning, or when the user starts using the 23 cleaning center, and then would be dumped out once 24 the cleaning fluid was spent or used up.</p>	<p style="text-align: right;">Page 176</p> <p>1 information as to interrogatory -- the response to 2 Interrogatory Number 5? 3 A. From my perspective the cleaning center was, 4 for the client, a necessary, logical result, because 5 from the client's perspective, the client needs more 6 hygiene. 7 The client asks for systems that solve 8 problems. The client doesn't want to buy a brush, 9 and the liquid, and this, and that; he wants one 10 system within which everything is included. 11 Q. Why do you say it was then the logical 12 result for the client? 13 A. For the client the result is never the way, 14 our way, of manufacturing -- of performing the 15 cleaning, it's only the result for him, from his 16 perspective, the simplicity. 17 Q. What is logical about the result? 18 A. For example, the dishwasher; the idea to 19 avoid the things during the day which you don't want 20 to do. 21 Q. So you use the analogy of a dishwasher; 22 whereas someone in the past had to put things in a 23 sink, and wash them off, and then put them in a 24 drying rack, eventually someone put that all into an</p>

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<p style="text-align: right;">Page 177</p> <p>1 automatic system?</p> <p>2 A. Yes.</p> <p>3 Q. That's the type of logical result that you</p> <p>4 are thinking of?</p> <p>5 A. Yes.</p> <p>6 Q. Is there anything else, aside from what you</p> <p>7 just mentioned, that you think needs to be added to</p> <p>8 the response to Interrogatory Number 5 as you sit</p> <p>9 here today?</p> <p>10 A. No.</p> <p>11 Q. Taking you back then to your notebook you</p> <p>12 were talking about yesterday, and if I could direct</p> <p>13 your attention to page B 6741, and at the top I</p> <p>14 believe you list the names Bach, Ebner, and</p> <p>15 Faulstich, can you tell me who each of those</p> <p>16 gentlemen and why -- or what role, if any, they</p> <p>17 played in the development of the shaver cleaning</p> <p>18 system?</p> <p>19 A. I can only give an answer with regard to</p> <p>20 Ebner and Faulstich. Ebner is an industrial</p> <p>21 engineer for this project, and Faulstich is PPM,</p> <p>22 project and program manager.</p> <p>23 Q. Starting with Mr. Ebner as industrial</p> <p>24 engineer, what did he do in connection with the</p>	<p style="text-align: right;">Page 179</p> <p>1 work on the shaver cleaning center project?</p> <p>2 A. I don't know.</p> <p>3 Q. With respect to Mr. Faulstich, what role did</p> <p>4 he play in the shaving cleaning center project?</p> <p>5 A. As PPM he is responsible for the entire</p> <p>6 project. He doesn't have much to do with the</p> <p>7 technicality, but he writes reports for the senior</p> <p>8 management.</p> <p>9 Q. These are referred to as just PPM reports,</p> <p>10 is that --</p> <p>11 A. MPR.</p> <p>12 Q. To your recollection how often were MPR</p> <p>13 reports generated related to the shaver cleaning</p> <p>14 center project?</p> <p>15 A. The nomination of the report says it, it has</p> <p>16 been established monthly, the report, but it starts</p> <p>17 in reality at the moment where we officially launch</p> <p>18 the project -- oh, start, start the project, and it</p> <p>19 changes with the serial start.</p> <p>20 MR. HOESER: And then it stops.</p> <p>21 ATTY. SHIMOTA: Wait.</p> <p>22 MR. HOESER: After the serial start he</p> <p>23 stops reporting, because --</p> <p>24 ATTY. SHIMOTA: -- it's on the market.</p>
<p style="text-align: right;">Page 178</p> <p>1 shaver cleaning center project?</p> <p>2 A. He is responsible for the cost and the</p> <p>3 scheduling of the project.</p> <p>4 Q. When you say the cost, do you mean he would</p> <p>5 have the counts on the parts or how much -- let me</p> <p>6 rephrase. Was he the person responsible for setting</p> <p>7 the budget for the cleaning center project?</p> <p>8 A. No, he found out about the cost, how much it</p> <p>9 would cost if he wanted to manufacture the product</p> <p>10 at time point X.</p> <p>11 Q. Okay. I see. When you say scheduling, what</p> <p>12 do you mean by scheduling; was he setting milestones</p> <p>13 that needed to be met for --</p> <p>14 A. If we have a concept -- let's say we have a</p> <p>15 concept of a product and in 6 weeks we are going to</p> <p>16 hand in the drawings, then he is planning the next</p> <p>17 steps in the production which are needed to</p> <p>18 manufacture the product.</p> <p>19 Q. Does Mr. Ebner still work at Braun?</p> <p>20 A. Yes.</p> <p>21 Q. And what position does he hold today?</p> <p>22 A. The same.</p> <p>23 Q. Do you know or -- what steps has Braun taken</p> <p>24 to gather documents from Mr. Ebner regarding his</p>	<p style="text-align: right;">Page 180</p> <p>1 MR. HOESER: -- it's on the market;</p> <p>2 forget it, yes.</p> <p>3 Q. When you came to Braun in July of '95 were</p> <p>4 there already MPR reports discussing the shaver</p> <p>5 cleaning center project?</p> <p>6 A. I don't think so.</p> <p>7 Q. So did the project officially start when you</p> <p>8 came to Braun or approximately at the time you came</p> <p>9 -- let me rephrase. Did the shaver cleaning center</p> <p>10 project officially start approximately when you came</p> <p>11 to Braun?</p> <p>12 A. No.</p> <p>13 Q. When did the shaver cleaning center project</p> <p>14 officially start?</p> <p>15 A. I can only estimate this. I believe it was</p> <p>16 '97.</p> <p>17 Q. Why did the project officially start in --</p> <p>18 how did you -- when you began your work in July of</p> <p>19 '95, how would you categorize your work on the</p> <p>20 project?</p> <p>21 A. An R&D project.</p> <p>22 Q. Is there anything akin to an MPR report for</p> <p>23 R&D projects?</p> <p>24 A. Yes.</p>

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1 Q. And what is that document called?
2 A. There is no document in existence; the
3 project manager reports to his supervisor.
4 Q. And who -- I guess your supervisor was Mr.
5 Schaefer and there was also Dr. Haegele?
6 A. Yes.
7 Q. Would you report to, I guess, Mr. Schaefer
8 and Dr. Haegele, or one or the other?
9 A. One month the three of us were sitting
10 together and in broad lines I gave the milestones of
11 the project, or presented the milestones of the
12 project.
13 Q. Would you usually make these presentations
14 verbally or did you also provide written materials
15 too?
16 A. It was in no way could you consider this as
17 a presentation; it was an informal communication.
18 Dr. Haegele normally makes a tour once a week
19 through the department, and then once a month we
20 have the possibility to talk about the project.
21 Q. Do you know whether the MPR reports for the
22 shaver cleaning system product still exists today?
23 A. Yes.
24 Q. And how do you know that?

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1 A. Because they are retained in Mrs. Abraham's
2 s office.
3 Q. Do you know if Braun has made -- or what
4 steps did Braun take to gather the MPR reports
5 related to the shaver cleaning center product?
6 A. I don't know.
7 Q. And what steps has Braun taken to gather
8 documents from Mr. Faulstich related to the shaver
9 cleaning center project?
10 A. I don't know.
11 Q. If you could turn to -- well, I'll just ask
12 again. On page B 6742 you'll see reference to a Mr.
13 Stiegler. You see that?
14 A. Yes.
15 Q. What role did Mr. Stiegler play in the
16 development of the shaver cleaning center project?
17 A. He was an approbation engineer, and he was
18 my contact person with regards to what we discussed
19 yesterday about the interlock device in the cleaning
20 center.
21 Q. Did you ever correspond with Mr. Stiegler or
22 would you just communicate with him verbally?
23 A. At that time there was no e-mail yet, and I
24 personally prefer anyway to talk to people directly.

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1 Q. Do you know if Mr. Stiegler received any
2 additional documents from VDE during the course of
3 the entire shaver cleaning center project?
4 A. I can't say that.
5 Q. Well, did Braun ever have any further
6 contact with VDE regarding the shaver cleaning
7 center project?
8 A. Yes.
9 Q. And how do you know that?
10 A. I went with Mr. Stiegler on a business trip
11 to VDE and so we talked directly to the people to
12 find out what we could do to solve the problem.
13 Q. Who did you talk with at VDE?
14 A. I don't recall the name.
15 Q. Would there be any written records regarding
16 the meeting you took at VDE?
17 A. No reports authored by myself, but Mr.
18 Stiegler, because of his position, certainly
19 documented this.
20 Q. Do you know -- what steps has Braun taken to
21 gather documents from Mr. Stiegler relating to the
22 shaver cleaning center project?
23 A. I don't know.
24 Q. If you could direct your attention to B

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1 6745. If you see on that page it says meeting VDE?
2 A. Which page?
3 Q. 6745. At the top does it say meeting with
4 Mr. Stiegler July 15, 1996?
5 A. Yes.
6 Q. The line next to, you know, below, where it
7 says different line cord, somewhere in there, and I
8 am working from a translation, so if our translation
9 isn't accurate, please tell me.
10 A. Okay. Yes. I have it.
11 Q. Would this have been approximately a time
12 when you had the meeting with VDE?
13 A. I guess, yes.
14 Q. Does this refresh your recollection as to
15 whom you would have met with, seeing your notebook?
16 A. No.
17 Q. If you could direct your attention to page
18 6758. I believe at one point in the page it says
19 interim solution Mr. Braun?
20 A. Yes, I have it.
21 Q. Do you know what is meant by the entry
22 interim solution Mr. Braun?
23 A. Yes.
24 Q. What is meant by that entry?

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1 A. You want his drawings or his sketch?
 2 Q. Yes. Just let me open it up. Directing
 3 your attention then to the sketch, what is the
 4 interim solution?
 5 A. I don't know what the interim solution
 6 consisted of, but the topic here was sealing the
 7 motor base in the pump.
 8 MR. HOESER: Yes, the motor shaft.
 9 Q. Was Mr. Braun still assisting in the
 10 development of -- is this a reference to Gebhard
 11 Braun?
 12 A. I don't know. At that point in time we had
 13 several suggestions what the aspect of the sealing
 14 could be, and it is possible that one of Mr. Braun's
 15 ideas was still there.
 16 Q. Was there a problem with the sealing of the
 17 pump?
 18 A. Of course. Always.
 19 Q. And, well, did you eventually reach a
 20 solution to that problem?
 21 A. Yes.
 22 Q. And was it the solution suggested by Mr.
 23 Braun or may have been remaining from Mr. Braun?
 24 A. No.

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1 Q. What was the solution?
 2 A. Mexican hat.
 3 MR. HOESER: It's a joke.
 4 ATTY. SHIMOTA: Sombrero?
 5 MR. HOESER: Sombrero.
 6 A. We built a sealing where the fitting was
 7 different than on the older one, the former one.
 8 The aspect, the visual aspect, of the sealing was
 9 the shape of a Mexican hat, of a sombrero.
 10 Q. We will get back to your notebook in one
 11 second. Let me just ask you this question and then
 12 maybe we can work through. Look back to the
 13 30(b)(6) notice, it's topic 24, which states the
 14 reason that Braun did not commercialize the
 15 synchrosystem until approximately 7 years after the
 16 alleged inventions had the patents in suit; do you
 17 see that?
 18 A. Yes.
 19 Q. What is the reason that Braun did not
 20 commercialize the synchrosystem until
 21 approximately 7 years after the alleged inventions
 22 of the patents in suit
 23 A. The problem was that business didn't believe
 24 in the success of the product. Well, for business

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1 it was inconvenient, or it was annoying to talk
 2 about a negative topic. It was almost taboo when it
 3 came to talking about this topic. Cleaning was
 4 always a problem.
 5 Q. So the business people were skeptical about
 6 the idea of the cleaning center?
 7 A. Yes.
 8 Q. Do you recall any particular individuals who
 9 were skeptical?
 10 A. Helmut Falstich and Gilbert Greaves.
 11 Q. Do you recall a time when you came to show
 12 Mr. Greaves a prototype of the cleaning system?
 13 A. Yes.
 14 Q. Did Mr. Greaves tell you anything at that
 15 time about -- did he express anything to you at that
 16 time regarding your prototype?
 17 A. I don't recall the exact formulation he
 18 used, but it was certainly negative. The core of
 19 the message was that such a product was not needed.
 20 Q. Do you know if -- well, did Mr. Greaves ever
 21 tell you that he was aware that people had been
 22 working on a cleaning center prior to the time you
 23 began work on it?
 24 A. No.

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1 Q. Did he express to you that this -- when he
 2 saw the prototype that it was the first time that he
 3 was aware that work was being done on the cleaning
 4 center?
 5 A. No.
 6 Q. Aside from the business reasons is it
 7 correct to say that when you came to Braun in 1995
 8 Braun was -- the cleaning center was ready to be
 9 commercialized?
 10 ATTY. PATTON: Object to the form of the
 11 question.
 12 A. No.
 13 Q. Why was it not ready to be commercialized?
 14 ATTY. PATTON: Same objection.
 15 A. The essential elements were already present,
 16 but the fine work needed yet to be done.
 17 Q. When you say the essential elements, what do
 18 you mean by the essential elements?
 19 A. The removable cartridge, the cradle of the
 20 shaver, and the idea to dry using a fan.
 21 Q. So is it fair to say that the -- I mean, you
 22 worked yourself personally on the cleaning center
 23 for approximately, I guess, three and a half years
 24 before it was commercialized?

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<p style="text-align: right;">Page 189</p> <p>1 A. Yes.</p> <p>2 Q. And so that period of work was essentially</p> <p>3 refining the idea or the device?</p> <p>4 ATTY. PATTON: Object to the form.</p> <p>5 A. Yes.</p> <p>6 Q. Let me ask this question, did you</p> <p>7 consider -- or did your work over that three and a</p> <p>8 half year period -- was that challenging, were there</p> <p>9 challenges that you needed to overcome?</p> <p>10 ATTY. PATTON: I object to the form of</p> <p>11 the question.</p> <p>12 A. Yes.</p> <p>13 Q. And what were those challenges?</p> <p>14 ATTY. PATTON: Same objection.</p> <p>15 A. One challenge was to convince the company</p> <p>16 that it was a good idea and to offer technical</p> <p>17 solutions which helped with convincing the company.</p> <p>18 Q. What were the technical solutions which</p> <p>19 helped to convince the company that it was a product</p> <p>20 that should be marketed?</p> <p>21 A. For example, to change the technical details</p> <p>22 so much that the design improved greatly.</p> <p>23 Q. So you mean the aesthetic appearance of the</p> <p>24 device?</p>	<p style="text-align: right;">Page 191</p> <p>1 A. Mm.</p> <p>2 Q. Do you know why you entered the name Dr.</p> <p>3 Pahl on this page around this date?</p> <p>4 A. I don't remember.</p> <p>5 Q. Do you see at the top there is stated the</p> <p>6 Euromold exhibition?</p> <p>7 A. Mm.</p> <p>8 Q. Does that refresh your recollection as to</p> <p>9 why you might have listed Dr. Pahl?</p> <p>10 A. No.</p> <p>11 Q. I think we discussed yesterday you did have</p> <p>12 meetings with Dr. Pahl regarding the cleaning center</p> <p>13 project. Where would you have been having these</p> <p>14 meetings with him?</p> <p>15 A. Pahl was an informal manager; it was always</p> <p>16 on a Friday afternoon we exchanged information</p> <p>17 having a cup of coffee where he just came and said</p> <p>18 what's the stand on the cleaning center.</p> <p>19 Q. Would this be occurring like in the</p> <p>20 cafeteria, or would he come to your office?</p> <p>21 A. Most likely in my office or in his office.</p> <p>22 Q. Did he provide any -- did he assist you in</p> <p>23 any way in your work on the cleaning center project?</p> <p>24 A. Never.</p>
<p style="text-align: right;">Page 190</p> <p>1 A. Yes.</p> <p>2 Q. Did the aesthetic appearance of the</p> <p>3 device -- was that something that encouraged</p> <p>4 business people to market it, to your recollection?</p> <p>5 A. That was one aspect yes.</p> <p>6 Q. Was there any other aspect that you can</p> <p>7 think of?</p> <p>8 A. The second aspect was cost related.</p> <p>9 Q. So you worked to minimize the cost of the --</p> <p>10 A. -- the product.</p> <p>11 Q. -- product. And were there any other</p> <p>12 reasons?</p> <p>13 A. And to optimize the technical elements in</p> <p>14 such a way to have as a result an optimal function,</p> <p>15 and this in the relation between the apparatus, the</p> <p>16 liquids, the shaver, and the container.</p> <p>17 Q. I understand. So just -- I guess I'm just</p> <p>18 making sure I understand. For item 24, the reason</p> <p>19 for the time, the time lapse there, was that the</p> <p>20 business people felt that there was no need for the</p> <p>21 cleaning center?</p> <p>22 A. Yes.</p> <p>23 Q. If you could turn to B 006810. I believe</p> <p>24 there is a reference to Dr. Pahl on this page.</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. Did he ever tell you why he was interested</p> <p>2 in the work on the cleaning center project?</p> <p>3 A. Maybe we have to add that it was Mr. Pahl</p> <p>4 who recruited me.</p> <p>5 Q. Oh, Dr. Pahl interviewed you?</p> <p>6 A. Yes.</p> <p>7 Q. When did he interview you?</p> <p>8 A. At the end of 1994.</p> <p>9 Q. At that time did he discuss with you the</p> <p>10 cleaning center project?</p> <p>11 A. No.</p> <p>12 Q. So circle back. I think you learned -- the</p> <p>13 first time you learned of the cleaning center</p> <p>14 project was when you came to Braun in '95?</p> <p>15 A. Mm-mm.</p> <p>16 Q. If you look on page 6810 there is listed</p> <p>17 Inchem, Mr. Arendt?</p> <p>18 A. Yes.</p> <p>19 Q. Who is Mr. Arendt?</p> <p>20 A. Inchem is the company that produces the</p> <p>21 cleaning liquid, and Mr. Arendt is the project</p> <p>22 manager, the chemist, of this company.</p> <p>23 Q. I believe you mentioned earlier</p> <p>24 correspondence you may have had with suppliers,</p>

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<p style="text-align: right;">Page 193</p> <p>1 third-party suppliers; is that correct? Would you 2 have corresponded with Mr. Arendt? 3 A. Yes. 4 Q. Do you know if you still have any 5 correspondence with Mr. Arendt? 6 A. Yes. 7 Q. And did you provide that correspondence to 8 Braun's attorneys? 9 A. No. 10 Q. How do you know that you still have that 11 correspondence? 12 A. Because I have 3 binders. 13 Q. Three binders of correspondence with Mr. 14 Arendt specifically? 15 A. Those are 3 binders in which I have all the 16 information linked to the cleaning liquid. 17 Q. And did you give any of those -- any of the 18 documents in those 3 binders to Braun's attorneys? 19 A. No. 20 Q. Do you recall -- when you first started 21 working on the cleaning center project do you recall 22 what the cleaning fluid -- what cleaning fluid was 23 used? 24 A. Yes.</p>	<p style="text-align: right;">Page 195</p> <p>1 A. I cannot say that, but Mr. Arendt was my 2 contact person within Inchem from the first day 3 onwards. 4 Q. Let me just make sure I'm asking this the 5 right way. Was there a cleaning -- when you came -- 6 when you saw the original work from Dr. Paul and Mr. 7 Braun, was there a cleaning fluid associated with 8 that -- their work that you can recall? 9 A. Plus, minus, yes. 10 Q. How do you mean plus, minus, yes? 11 A. Yes, it was determined that the liquid, the 12 cleaning liquid, needed to be a liquid which had 13 alcohol as a basis. 14 Q. Do you know anything beyond those details? 15 A. I don't recall. 16 Q. Do you know of anyone at Braun who would 17 know the chemical composition of the cleaning fluid 18 which was used by Mr. Braun and Dr. Pahl? 19 A. No. 20 Q. If you could turn to B 6812. On this 21 document there is again referenced Dr. Pahl? 22 A. I think I have to explain to you how my lab 23 book functions. 24 Q. Oh, okay.</p>
<p style="text-align: right;">Page 194</p> <p>1 Q. Do you know what the chemical composition of 2 the cleaning fluid was? 3 A. In broad lines roughly. 4 Q. Do you still have any documents which would 5 show what the composition of the cleaning fluid was? 6 A. Yes. 7 Q. And how do you know that you have those 8 documents? 9 A. As far as a human being can recall. 10 Q. Oh, I understand. Do you know if you would 11 have provided the document regarding the original 12 cleaning fluid to Braun's attorneys? 13 A. I did not forward any document whatsoever 14 concerning cleaning liquids to attorneys, except 15 maybe what you found here in the lab notebook. 16 Q. Oh, I understand. Aside from your own 17 documents do you know where -- any other place that 18 you would look to be able to determine the chemical 19 composition of the original cleaning fluid? 20 A. Yes. 21 Q. And where would you look? 22 A. I would call Mr. Arendt. 23 Q. So Mr. Arendt provided the original cleaning 24 fluid to someone who preceded you?</p>	<p style="text-align: right;">Page 196</p> <p>1 A. On page 6810 you see Dr. Pahl without the 2 check mark? The name of Dr. Pahl without the check 3 mark, you see that? 4 Q. Yes. 5 A. So I can only assume that he called me and 6 that I thought, Well, I still have to talk to him, 7 and then I used -- I mean, I went to the next page, 8 and then up to the point where -- I carried this 9 with me until the moment came where I contacted him, 10 or I spoke with him, and then I let go -- I mean I 11 checked. 12 Q. Let me ask you this question first. Is it 13 atypical for engineers at Braun to keep laboratory 14 notebooks? Aside from yourself have you ever seen 15 any other engineer at Braun keep a laboratory 16 notebook such as this? 17 A. Yes. 18 Q. Have you ever seen an engineer who worked 19 with you on the cleaning center project keep a 20 laboratory notebook? 21 A. I don't remember. 22 Q. And I guess is it -- let me use the word is 23 it odd for an engineer to keep a -- or is it -- not 24 odd; is it rare for engineers at Braun to keep a</p>

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<p style="text-align: right;">Page 197</p> <p>1 laboratory notebook?</p> <p>2 ATTY. PATTON: Object to the form of the</p> <p>3 question.</p> <p>4 A. I can't answer the question.</p> <p>5 Q. If you could just look back at that page</p> <p>6 6812 -- 6812. There are several entries there on</p> <p>7 this page. I mean, there is, I think, I believe</p> <p>8 indicated, a meeting with Mr. Klauer and some other</p> <p>9 entries. Does anything on this page refresh your</p> <p>10 recollection as to why you would have been meeting</p> <p>11 or speaking with Dr. Pahl?</p> <p>12 A. No.</p> <p>13 Q. If you direct your attention to page 6822,</p> <p>14 in the middle of that page I believe there is listed</p> <p>15 Ebner regarding CreaTecnik -- fax with cartridge</p> <p>16 drawing?</p> <p>17 A. Mm-mm.</p> <p>18 Q. Who was CreaTecnik?</p> <p>19 A. I can't recall.</p> <p>20 Q. Do you know -- is Mr. Ebner still at Braun?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know if Braun has searched for any</p> <p>23 documents related to CreaTecnik related to the</p> <p>24 cleaning center project?</p>	<p style="text-align: right;">Page 199</p> <p>1 lawyers.</p> <p>2 Q. So you believe that this report which we are</p> <p>3 discussing would have been saved electronically?</p> <p>4 A. Yes.</p> <p>5 Q. If you could turn next to page 6844. There</p> <p>6 on this page there is first listed, I believe midway</p> <p>7 down, Philips cleaning liquid test report?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know what is meant by that entry?</p> <p>10 A. At that point in time 2 different Philips</p> <p>11 cleaning systems were available, if I recall well.</p> <p>12 Those have a cleaning liquid, and one of those</p> <p>13 liquids was the object of the test, or the analysis.</p> <p>14 Q. Can you describe for me what the 2 different</p> <p>15 Philips cleaning systems were?</p> <p>16 A. Yes.</p> <p>17 Q. Would you please do so.</p> <p>18 A. So one of those apparatuses was a triangular</p> <p>19 shaped apparatus with a triangular opening in which</p> <p>20 the demounted or unmounted, I think -- I mean, the</p> <p>21 apparatus was taken apart, the cutting parts were</p> <p>22 put into -- in a basket, mesh wire basket, and then</p> <p>23 this basin was filled with the liquid from a bottle,</p> <p>24 then the apparatus was plugged in, switched on, and</p>
<p style="text-align: right;">Page 198</p> <p>1 A. I don't know.</p> <p>2 Q. If you could turn to page 6840. On that</p> <p>3 page there is listed Philip's analysis and cleaning</p> <p>4 test. Undemeath there is written short report?</p> <p>5 A. Yes.</p> <p>6 Q. Was this an analysis of the Philips cleaning</p> <p>7 system that we discussed before?</p> <p>8 A. I can't answer that. I don't know.</p> <p>9 Q. Well, do you know whether a short report was</p> <p>10 generated regarding the Philips cleaning -- well,</p> <p>11 some Philips product?</p> <p>12 A. I assume that, yes.</p> <p>13 Q. Does that entry indicate that you personally</p> <p>14 generated a report?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know if you still have that report?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you keep a separate file or binder</p> <p>19 regarding analysis of third-party products?</p> <p>20 A. If there was such a photo existing it was</p> <p>21 among the photos which I gave to the lawyers.</p> <p>22 Q. Why do you think you would have given that</p> <p>23 to the lawyers?</p> <p>24 A. Because I gave all my digital photos to the</p>	<p style="text-align: right;">Page 200</p> <p>1 then inside the liquids was -- I mean, there were</p> <p>2 wavelengths passing through the liquid.</p> <p>3 Q. This is an ultrasonic device?</p> <p>4 A. No, because ultrasonic means specific speed</p> <p>5 or frequency, and this was far below ultrasonic.</p> <p>6 Q. Something is vibrating at the bottom of the</p> <p>7 device to make it --</p> <p>8 A. Yes.</p> <p>9 Q. Your cleaning device, was it similar to the</p> <p>10 cleaning device that you have that we discussed</p> <p>11 earlier at Braun, the ultrasonic device that you</p> <p>12 have a Braun? It's not ultrasonic, but in its</p> <p>13 operation.</p> <p>14 A. Yes, but it is not dangerous. The product</p> <p>15 we use is a product which can only be used in</p> <p>16 plants.</p> <p>17 Q. In the Philips device, the vibrating device</p> <p>18 we were just discussing, how were the shaving heads</p> <p>19 dried?</p> <p>20 A. After the cleaning you have to remove the</p> <p>21 shaving head, you remove the complete basket from</p> <p>22 this device, hold it under a tap, and wash the</p> <p>23 cleaning liquid away. It's very important because</p> <p>24 this cleaning liquid hurts your skin, so you have to</p>

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<p style="text-align: right;">Page 201</p> <p>1 make sure a hundred percent that the cleaning liquid 2 is removed from the basket and from the cleaning 3 elements. Then you have to place a towel somewhere 4 in the bathroom and place all the single bits and 5 pieces on it for, let's say, 2 or 3 hours, so drying 6 is passive and by the towel is suction. 7 Q. Could you describe for me the second Philips 8 device? 9 A. Yes. It was a device -- it was an apparatus 10 which consists in a body in which you fill the 11 liquid. There is also a dome -- so once again the 12 shaver was taken apart, the cutting devices were put 13 in the basket, and the basket is situated between 14 the lower and the upper part of that apparatus. 15 Here in this area you have the cutting 16 devices, and when we push this down, then this whole 17 area up here, it was deformed, and that way the 18 liquid is pushed up through the cutting instruments, 19 and so here you have the filtering with a fence, and 20 through this the liquid is -- I mean, the liquid is 21 passing through this upwards, upstream, and then 22 flows back through the cutting instruments into the 23 container, the basin. Here you have the filter 24 where the dirt is caught.</p>	<p style="text-align: right;">Page 203</p> <p>1 trying to copy Philips, for example? 2 A. No, copying is not the task. 3 Q. At the bottom of this page on 6844 it says 4 there is a video of cleaning process of Philips and 5 there is Metzler by that? 6 A. Yes. 7 Q. Do you know if that video still exists? 8 A. That is the video I was looking for. We had 9 one video which we did of our own cleaning center 10 and a video about the cleaning centers of the 11 competition. 12 Q. You were unable to locate that video? 13 A. Yes. 14 ATTY. PATTON: When you come to a 15 convenient place, I just want a brief recess. We 16 would appreciate it. 17 ATTY. SHIMOTA: That's fine. That is 18 completely fine. 19 THE VIDEOGRAPHER: Off the record 11:53 20 a.m. 21 (Lunch recess.) 22 THE VIDEOGRAPHER: Back on the record 23 1:10 p.m. 24 Q. Just before the break we were discussing the</p>
<p style="text-align: right;">Page 202</p> <p>1 Q. I understand. Was the filter removable in 2 that device? 3 A. Yes. 4 Q. And you could -- could you -- I guess, did 5 Philips sell replacement filters? 6 A. Yes. 7 Q. Let me just mark that. I think I 8 understand. 9 (Document Marked as Exhibit 70 10 for identification.) 11 Q. When you were analyzing the Philips devices, 12 why were you doing that, or why did Braun analyze 13 the Philips devices at the time? 14 A. Curiosity. It's done like process in my 15 job. When I make sun roofs, I analyze all the sun 16 roofs I can find. I dismantle the sun roof in my 17 car, the car for my wife, everywhere, so this is 18 normal thing in my job. 19 Q. I guess as part of your job as an engineer 20 you want -- you are required to look at how the 21 competition's products work? 22 A. Yes. 23 Q. And I assume when you are doing that you are 24 just trying to gain information and you are not</p>	<p style="text-align: right;">Page 204</p> <p>1 Philips device, that there. Did the Philips device 2 have a cartridge? 3 A. The cartridge served as the filter. This is 4 again -- the question is, again, how do I define the 5 word cartridge. In the meantime it is so that 6 everything we can refill we can refer to that item 7 as a cartridge, and then in that case the filter is 8 also called cartridge. 9 Q. Let me make sure. I want to distinguish 10 here. How was the cleaning fluid stored or 11 introduced into the Philips device? 12 A. It was a bottle that came with it, so it's 13 blow molded bottle -- you know what blow molding 14 means? 15 Q. Yes. 16 A. -- and you tear off the top of the bottle 17 and fill the container into the upper part of the 18 appliance. 19 Q. Let me ask this question. If you can look 20 in your notebook at B 6846. If you can take a look 21 there, I believe there is a reference made to the 22 Philips cartridge, third line. 23 A. Yes. 24 Q. Are you referring then there to the filter,</p>

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<p style="text-align: right;">Page 205</p> <p>1 or what are you referring to there by that entry?</p> <p>2 A. Because Inchem is mentioned here I assume</p> <p>3 that I meant the bottle.</p> <p>4 Q. If you could look at 6848 too, please. If</p> <p>5 you could turn back to 6846, please, there is a</p> <p>6 reference next to the name of Mr. Ullmann of</p> <p>7 Grentner, Grenter?</p> <p>8 A. Greubel.</p> <p>9 Q. Oh, is that what it is?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. I know that name. Okay. I want to</p> <p>12 go to 6848.</p> <p>13 A. G-r-e-u-b-e-l, I believe.</p> <p>14 Q. Do you see on 6848 at the top there is</p> <p>15 referenced the filter for cleaning instrument</p> <p>16 Philips and there I assume you are referring to what</p> <p>17 we have discussed as the filter of that device?</p> <p>18 A. Yes, I guess. It's only a guess, yes.</p> <p>19 Q. Who is Mrs. Schreyer?</p> <p>20 A. Mrs. Schreyer is a purchase person of our</p> <p>21 purchase department, a buyer. You call them buyers</p> <p>22 in the US.</p> <p>23 Q. Then you see at the bottom there is a</p> <p>24 reference again to the Philips cartridge?</p>	<p style="text-align: right;">Page 207</p> <p>1 interlock, or the material from Rau?</p> <p>2 A. No, it was just an idea.</p> <p>3 Q. If you could look to page 6936, there is a</p> <p>4 discussion in the middle of the page regarding</p> <p>5 Philips Philishave shave action cleaner comments.</p> <p>6 Well, actually about a quarter of the way down the</p> <p>7 page.</p> <p>8 A. Yes. This is action cleaner.</p> <p>9 Q. Next to that it's written Ebner distribution</p> <p>10 of documents, and then it's additional, and our</p> <p>11 translator couldn't read the last word; do you know</p> <p>12 what that word is?</p> <p>13 A. I don't know. I can't remember.</p> <p>14 Q. Do you recall Mr. Ebner distributing</p> <p>15 documents about the Philishave action cleaner?</p> <p>16 A. I don't think so.</p> <p>17 Q. Let me just make sure I understand. You</p> <p>18 don't think the documents were distributed, or you</p> <p>19 don't think you remember receiving them?</p> <p>20 A. I'm pretty sure that Ebner didn't have</p> <p>21 anything to do with anything happening around</p> <p>22 Philishave.</p> <p>23 Q. Do you know what you meant by Ebner</p> <p>24 distribution of documents?</p>
<p style="text-align: right;">Page 206</p> <p>1 A. Yes.</p> <p>2 Q. And above that there is listed Rau regarding</p> <p>3 recommendation, right above the Philips cartridge</p> <p>4 reference?</p> <p>5 A. Rau is a company in Germany that produces</p> <p>6 sheet memory metal.</p> <p>7 Q. Do you know what Rau would have been</p> <p>8 recommending to you?</p> <p>9 A. I only had one single contact with Rau, and</p> <p>10 this was with regard to lock of the cleaning center,</p> <p>11 or interlock.</p> <p>12 Q. So you were contacting them regarding the</p> <p>13 material for the interlock?</p> <p>14 A. Yes.</p> <p>15 Q. Did Rau ultimately provide that material?</p> <p>16 A. Sure.</p> <p>17 Q. Do you know if there were to be any -- well,</p> <p>18 if records still existed regarding your</p> <p>19 communications with Rau would they be in the binders</p> <p>20 we discussed earlier?</p> <p>21 A. I think that what Rau delivers is only</p> <p>22 mentioned in the laboratory notebooks, because the</p> <p>23 material Rau delivers is too expensive for us.</p> <p>24 Q. So the material wasn't used in the</p>	<p style="text-align: right;">Page 208</p> <p>1 A. No.</p> <p>2 Q. Finally for this document if you could turn</p> <p>3 to B 6988. Near the bottom of the document there is</p> <p>4 listed patent registration meeting Dr. Haegele, then</p> <p>5 there is another name --</p> <p>6 A. Janaette.</p> <p>7 Q. What name is that?</p> <p>8 A. Janaette.</p> <p>9 Q. Could you spell that?</p> <p>10 A. J A N A E T T E, French name.</p> <p>11 Q. Who was Janaette?</p> <p>12 A. The lawyer from Braun responsible for</p> <p>13 electronics.</p> <p>14 Q. Do you recall what this particular patent</p> <p>15 registration meeting was about?</p> <p>16 A. I guess we had yesterday in kind of</p> <p>17 protocol, or meeting minutes, something. I guess it</p> <p>18 was the same or it's about this. Maybe you remember</p> <p>19 yesterday we had a paper or some papers about a</p> <p>20 meeting where it's written --</p> <p>21 Q. That would have been in your notebook</p> <p>22 actually yesterday, I think.</p> <p>23 A. And this was meeting like this. We sit</p> <p>24 together, discuss status of patent, and that's it.</p>

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<p style="text-align: right;">Page 209</p> <p>1 Q. Do you know why Mr. Petretty was involved in 2 this particular meeting? 3 A. Yes, because Janaette was participating as 4 well, and Janaette is Petretty represent 5 electronics. 6 Q. What did Petretty do? What was Petretty's 7 role in the development of the shaver cleaning 8 system? 9 A. He is the co-worker who works in the 10 electronic development department, which is a part 11 of the -- which represents a part of the razor 12 development -- shaver development department. 13 Q. Did Mr. Petretty develop the circuitry used 14 in the cleaning center? 15 A. Yes. 16 Q. What steps has Braun taken to collect 17 documents from Mr. Petretty regarding his work on 18 the shaver cleaning system? 19 A. I don't know. 20 Q. Do you know the names of any other 21 individuals who would have worked on the control 22 circuitry for the cleaning center? 23 A. Yes. 24 Q. Could you provide me with those names?</p>	<p style="text-align: right;">Page 211</p> <p>1 Q. Did you -- I mean, had you discussed with 2 Dr. Paul work that he had done on the cleaning 3 center? 4 A. No. 5 Q. I guess you had told me -- previously you 6 had mentioned to me that Mr. Schaefer and Mr. Klauer 7 had told you that Dr. Pahl had worked on the 8 cleaning center; are there any other individuals who 9 informed you about Dr. Paul's work on the cleaning 10 center to your recollection? 11 A. No. 12 Q. You can set aside this notebook. I'd like 13 to mark next as Defendant's Deposition Exhibit No. 14 71, a document bearing the Bates No. B 007653 -- 15 there are two -- 007656. I'm only interested in the 16 first 2 pages, and I believe there is an English 17 translation of these. 18 Actually, if you would, can I just have 19 that back. I want to rip off the last 2 pages. 20 I'll just restaple them in a second. 21 (Document marked as Exhibit 71 22 for identification.) 23 Q. I ask you if you recognize this document. 24 A. Yes.</p>
<p style="text-align: right;">Page 210</p> <p>1 A. Cimbal, C-i-m-b-a-l; first name J-o-c-h-e-n. 2 Q. Is there anyone else aside from Mr. Cimbal? 3 A. I don't think so. 4 Q. What steps has Braun taken to collect 5 documents from Mr. Cimbal related to his work on the 6 shaver cleaning system? 7 A. I don't know. 8 Q. Do you know if Mr. Petretty and Mr. Cimbal 9 developed the control circuitry for the original 10 cleaning center. Let me -- do you know if Mr. 11 Petretty and Mr. Cimbal developed the control 12 circuitry for the cleaning center that Mr. Braun and 13 Dr. Pahl worked on? 14 A. I don't know. 15 Q. Let me ask this question, was it considered 16 a secret that Dr. Pahl had worked on the cleaning 17 center? 18 ATTY. PATTON: I object to the form of 19 the question. You can answer it if you understand. 20 A. I don't know. It was before my time. 21 Q. Well, did you perceive that -- well, did Dr. 22 Pahl ever tell you to keep his work on the cleaning 23 center a secret? 24 A. No.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. And what is Defendant's Deposition Exhibit 2 71? 3 A. This is a chart which I put together for Mr. 4 Greaves, a summary, and this is a chart where I 5 compare what Mr. Pahl did in quotation marks with 6 what Mr. Hoerer did. 7 Q. You said you prepared this for Mr. Greaves? 8 A. Yes, this was. I remember it was prepared 9 for Mr. Greaves. 10 Q. Do you recall when you prepared it for Mr. 11 Greaves? 12 A. Four or 5 years ago. 13 Q. Did Mr. Greaves tell you why he wanted this 14 document? 15 ATTY. PATTON: Object to the form. 16 A. No. 17 Q. Do you know if Mr. Greaves used this 18 document for any purpose? 19 A. No. I don't know. 20 Q. So it's correct that you generated this at 21 the request of Mr. Greaves and then you don't know 22 what happened to it afterwards? 23 MR. HOESER: Correct me. 24 A. The request came from Dr. Haegle, and he</p>

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<p style="text-align: right;">Page 213</p> <p>1 told me, Okay, I should prepare this document for 2 Mr. Greaves, and I send it, I don't know, directly 3 to Greaves or by Dr. Haegele to Greaves. 4 Q. I want to make sure. Did Dr. Haegele tell 5 you why Mr. Greaves wanted this document? 6 A. No. 7 Q. I'm going to work from the English version, 8 but you can look at the German. I believe under the 9 4th bullet point under the Dr. Pahl column, does it 10 state no cartridge but integrated fluid container? 11 A. Yes. 12 Q. Under the 4th bullet under your device it 13 says removable cartridge below cleaning device, 14 cartridge taped with needle; is that correct? 15 A. Yes. 16 Q. Why did you state underneath the Dr. Pahl 17 column no cartridge but integrated fluid container? 18 A. I can only assume things. 19 Q. Well, what is your best recollection? 20 A. The task consisted in showing us, as clearly 21 as possible, the differences between the 2 devices 22 which are shown here on the picture. If the task 23 had been to describe the similarities I would have 24 brought up the liquid container in those cases.</p>	<p style="text-align: right;">Page 215</p> <p>1 Q. Who came up with that idea? 2 A. That idea existed when I joined Braun. 3 There was a device with a cartridge that was 4 removable. 5 Q. There are 2 devices pictured here? 6 A. Yes. 7 Q. So I assume between -- at some point between 8 the creation of the first device under Dr. Paul and 9 the second device listed under you there is some 10 intermediate device. 11 A. Right. 12 Q. Do you know who created that device? 13 A. Yes. 14 Q. Who was that? 15 A. Braun. 16 Q. Mr. Braun? 17 A. Yes. 18 Q. Would that have been -- 19 A. It's not in the time line. 20 Q. Actually, see, there is pictures here? 21 A. Okay. 22 Q. Can you find it handy, or... there are a lot 23 of pages of things. At about the third page of the 24 time line at B 2045 there is shown, listed as,</p>
<p style="text-align: right;">Page 214</p> <p>1 Q. Let me see if I understand. The device 2 which is pictured underneath the Dr. Pahl column, 3 that device did not have a cartridge? 4 A. Both the devices have a liquid container. 5 Q. Sure. And wouldn't -- when you wrote this 6 document, what did you mean when you use the term 7 cartridge? 8 A. In this context I understand on the 9 cartridge from the user's perspective the simplicity 10 to remove the cartridge and easily replace it. 11 Q. So am I correct that in the pictured device 12 under the Dr. Pahl column, using the definition you 13 have just provided me, that device did not have a 14 removable and replaceable cartridge? 15 A. I would not formulate it that way. 16 Q. Well, what was the pictured device lacking 17 which led you to express that it had no cartridge? 18 A. The issue here is that the liquid container 19 is not a removable part, but part of the device. 20 Q. Who came up with the idea of having a liquid 21 container being -- well, let me ask this question, 22 did you come up with the idea of the liquid 23 container being removable from the cleaning center? 24 A. No.</p>	<p style="text-align: right;">Page 216</p> <p>1 Design P. Schneider. 2 A. Yes. 3 Q. Is that the device you are referring to? 4 A. Yes. 5 Q. Was that device created at some point in 6 1994? 7 A. I don't know. This is a guess from my side. 8 It's rough point in time. It could be 1993, 1994. 9 I don't know. 10 Q. Well, why did you guess 1994? Let me ask, 11 did you base your guess of 1994 upon any facts? 12 A. When I wrote this time line in '96, '97 or 13 '98, I had -- I was at a meeting once where I came 14 across a design pattern, and the design pattern 15 matched the schedule, and then I was told that the 16 design was made in '94. That is what I was basing 17 myself on. 18 Q. Who told you the design was made in 1994? 19 A. I can't remember. 20 Q. Do you know if that document, the document 21 which showed something like the device we were 22 discussing, does that document still exist? 23 A. This document, no. 24 Q. You said you found a drawing that appeared</p>

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<p style="text-align: right;">Page 217</p> <p>1 to correspond with the design where it says design 2 P. Schneider 1994? 3 A. Not drawing. 4 Q. You came across the actual prototype? 5 A. Yes. 6 THE VIDEOGRAPHER: Off the record 1:42 7 p.m. 8 (Recess taken.) 9 THE VIDEOGRAPHER: Here begins Videotape 10 Number 6 in this deposition of Juergen Hoerer. Back 11 on the record 1:46 p.m. 12 Q. Had you ever spoken -- or have you ever 13 asked Mr. Schneider when he created the design 14 represented on your time line? 15 A. No. 16 Q. Have you ever spoken with Mr. Schneider 17 about what he did with respect to the cleaning 18 center project? 19 A. No. 20 Q. Have you ever spoken with Mr. Schneider at 21 all? 22 A. Yes. 23 Q. Have you talked with him -- have you 24 discussed the cleaning center project with Mr.</p>	<p style="text-align: right;">Page 219</p> <p>1 Q. Was he the head when you came to Braun in 2 the 1995? He was the head then? 3 A. Yes. 4 Q. I guess, I don't know if you know, but did 5 he have to approve his own design which is shown, 6 Design P Schneider 1994? 7 A. I think so. Yes. 8 Q. What form would the approval take? Was 9 there a document? Was there some form that needed 10 to be filled out in order to approve of something? 11 A. No. It's the designer, so the designers do 12 the job, coming with a mock-up into the office of 13 Mr. Schneider, and then they discuss about what is 14 the reason why the shaver is tilted, what is the 15 reason why the cartridge is somewhere else, what is 16 the reason why you like it in silver or black, and 17 they reviewing everything, and as soon as there is a 18 technical reason for any change, the designer says, 19 I'm sorry, boss, Hoerer has a technical problem to 20 solve, that's the reason why he tilted the shaver, 21 or he needs to tilt the shaver. This is the -- so 22 point in time where I enter the discussion. 23 Q. I understand. As an aside, why did you tilt 24 the shaver?</p>
<p style="text-align: right;">Page 218</p> <p>1 Schneider in any way? 2 A. Yes, towards the end. 3 Q. What did you speak with him about? 4 A. Mr. Schneider was, in fact, always 5 participating in this discussion, but only at 6 those -- but only when he really wanted to do so. 7 Q. When you say only when he really wanted to 8 do so, what do you mean? 9 A. So Mr. Schneider is the director, or the 10 supervisor, director, of the design department, and 11 so his first responsibility is to approve the final 12 design, so when every time the design had to be 13 drastically changed, Mr. Schneider entered his veto. 14 Q. How would he enter -- or how would Mr. 15 Schneider review a design change? 16 A. All the people, except Mr. Schneider, we see 17 on this list have to report to Mr. Schneider, and 18 the directives that people have to follow that work 19 in the design department are very clear every design 20 that leaves the department needs to be approved by 21 Mr. Schneider. 22 Q. Was Mr. Schneider the head of the industrial 23 design department in the 1993-1994 time frame? 24 A. I'm not sure.</p>	<p style="text-align: right;">Page 220</p> <p>1 A. Why? 2 Q. Yes, why is the shaver tilted? 3 A. The shaver is tilted because that way less 4 liquid is left in the head. 5 Q. So it's to encourage the draining or the 6 speed at which the fluid drains out of the cradle? 7 A. Yes. Not the cradle, the shaver. Both, but 8 first of all the shaver. I can tilt in a part of 9 the cradle as much as I need without any influence 10 on the shaver. As soon as I tilt the shaver, then I 11 get all the fluids flowing back into the cradle, 12 and then from there back into the cartridge. 13 ATTY. SHIMOTA: I would like to mark as 14 Defendant's Deposition Exhibit No. 72 US Patent No. 15 6236890. 16 (Document marked as Exhibit No. 72 17 for identification.) 18 Q. I ask you if you recognize this document. 19 A. Yes. 20 Q. If you would look to the 30(b)(6) notes if 21 you have that handy for yourself. 22 A. Yes. 23 Q. Defendant's Exhibit 49. 24 A. Which number?</p>

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<p style="text-align: right;">Page 221</p> <p>1 Q. The Exhibit No. is 49, the topic number is 2 No. 17, which is the accuracy of Braun's statement 3 relating to German Patent No. 4402238 C 2 and US 4 Patent No. 6236890. I ask you if you are prepared 5 to testify on behalf of Braun regarding Topic No. 6 17. 7 A. Yes. 8 Q. If you could turn to Column 1, Exhibit 72, 9 and I guess without reading it aloud I would ask 10 you -- there is a discussion of a figure 1 from the 11 German patent in the second full paragraph? 12 A. Mm-mm. 13 Q. My question is is the statement -- is -- are 14 the statements in the first or the second paragraph 15 regarding figure 1 accurate? 16 A. I cannot answer just like this, because this 17 is written in such a difficult English I would have 18 to prepare this in depth. 19 Q. So you are not prepared to answer regarding 20 whether or not the statements regarding German 21 Patent No. 4402238 in this particular patent are 22 accurate? 23 A. In the German patent I am able. 24 Q. Have you seen the German patent?</p>	<p style="text-align: right;">Page 223</p> <p>1 you if you recognize just that particular document. 2 I recognize there are several together, but I 3 believe the document ends at 7127. Do you recognize 4 that document? 5 A. The first page I don't recognize, but with 6 the others I do. 7 Q. What are represented by the pages that you 8 do recognize? 9 A. This is an invention document, an 10 application actually. I wrote the document. 11 Q. And is this a document that you wrote in 12 approximately November of '95? 13 A. No. 14 Q. Do you recall when you would have written 15 this document? 16 A. September. 17 Q. I see by your signature you have signed this 18 document on September 21 of 1995; is that correct? 19 A. Yes. 20 Q. Do you see what is written above the place 21 where you signed this document? It says here where 22 it was certified that all information was made to 23 the best knowledge and that no other inventors were 24 involved in the creation of the invention?</p>
<p style="text-align: right;">Page 222</p> <p>1 A. Not recently. 2 Q. So I assume you didn't review the German 3 patent in preparing for your deposition. 4 A. No. 5 Q. Sitting here today with respect to this US 6 patent do you have any reason to believe that the 7 statements regarding the German patent referenced in 8 the first, the 2, or the second and third 9 paragraphs, are inaccurate? 10 A. No, I don't have any. 11 Q. I'm not going to break these up. I am only 12 going to ask you about one of these documents. Just 13 for the sake of expediting things I'm going to mark 14 them all as Defendant's Deposition Exhibit No. 73, 15 the English translations of B 007112 ENG to B 007149 16 ENG. 17 I'm will also mark the German originals 18 of these documents as -- I'll mark the German 19 originals as Defendant's Exhibit No. 74, which are 20 at B 007112 to B 007149. 21 (Documents marked as Exhibits 73 and 74 22 for identification.) 23 Q. If you could direct your attention to the 24 documents which begin at B 007123, I'm going to ask</p>	<p style="text-align: right;">Page 224</p> <p>1 A. Yes. 2 Q. When you signed this did you understand what 3 was meant by the words above your signature? 4 A. I think so. 5 Q. And how did you understand that? How did 6 you come to arrive at that understanding? 7 A. I read it. 8 Q. Had anyone ever at Braun told you that if 9 someone else -- had anyone ever told you at Braun 10 that if someone had assisted you in the creation of 11 an invention that you needed to list them as an 12 inventor as well? 13 ATTY. PATTON: Object to the form of the 14 question. 15 A. Yes. 16 Q. Who had told you that? 17 A. I assume that it was Mr. Klauer. 18 Q. Did Mr. Klauer tell you why you would need 19 to list additional inventors when you filed an 20 invention record? 21 ATTY. PATTON: Same objection. 22 A. He didn't give any explanations. 23 Q. But did you believe he -- well, did you 24 think you needed to follow Mr. Klauer's advice?</p>

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<p>1 A. Yes.</p> <p>2 Q. And why did you follow Mr. Klauer's advice?</p> <p>3 A. Mr. Klauer was, at that point in time, my</p> <p>4 contact person in the patent department, and when</p> <p>5 that person tells me that I have to write down the</p> <p>6 names of the people who contributed in the</p> <p>7 invention, then I do that.</p> <p>8 Q. You follow the advice of your lawyers?</p> <p>9 A. Yes.</p> <p>10 Q. If you could look on the next page.</p> <p>11 A. 25?</p> <p>12 Q. It would be 7125, yes. Under point 4 you</p> <p>13 list out patents 05818, 05838, 05839 and 05840?</p> <p>14 A. Yes.</p> <p>15 Q. I believe we discussed yesterday the fact</p> <p>16 that Mr. Klauer had given you the patent</p> <p>17 applications reflected at those numbers in the past;</p> <p>18 do you recall that?</p> <p>19 A. Yes.</p> <p>20 Q. Would this have been the occasion when Mr.</p> <p>21 Klauer likely gave you those patent applications?</p> <p>22 A. I can't answer that. It is possible that</p> <p>23 Mr. Klauer, upon me asking him what patent</p> <p>24 applications existed, that he gave me those numbers</p>	<p>1 applications?</p> <p>2 A. That's right.</p> <p>3 Q. Were these -- are you listing here flaws in</p> <p>4 the -- or are you listing here drawbacks in the</p> <p>5 original work of Dr. Pahl and Mr. Braun?</p> <p>6 A. Yes.</p> <p>7 Q. And why was the pumping of dirty cleaning</p> <p>8 fluid a drawback in the original work of Dr. Pahl</p> <p>9 and Mr. Braun?</p> <p>10 A. Pumping of dirty fluids limits in a dramatic</p> <p>11 way the choice you have when choosing a pump.</p> <p>12 Q. Why was dirty fluid pumped or was -- why was</p> <p>13 there dirty -- why was there pumping of dirty</p> <p>14 cleaning fluid in Dr. Pahl's and Mr. Braun's</p> <p>15 original work?</p> <p>16 A. Because that's how those elements were</p> <p>17 aligned; cradle, pump, filter. Had to do with the</p> <p>18 alignment.</p> <p>19 Q. So it had to do with the -- how the fluid</p> <p>20 was circulated throughout the system?</p> <p>21 A. Exactly.</p> <p>22 Q. So let me show you the 328 patent, see if it</p> <p>23 would be helpful. I'm looking at figure 1. Do you</p> <p>24 see here at the bottom; is that the filter that you</p>
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<p>1 and that he said that those 4 numbers needed to be</p> <p>2 mentioned.</p> <p>3 Q. Do you know how you would have come to know</p> <p>4 those numbers if they had not come from Mr. Klauer?</p> <p>5 A. Possibly from Mr. Schaefer or Mr. Haegele.</p> <p>6 Q. Why would you think that Mr. Schaefer or Mr.</p> <p>7 Haegele would know those numbers?</p> <p>8 A. Mr. Schaefer was the boss of Mr. Braun, and,</p> <p>9 Mr. Haegele, because he was a director, he knows</p> <p>10 everything about the patents in his department.</p> <p>11 Q. So Mr. Haegele was involved -- do you know</p> <p>12 whether Mr. Haegele was involved in the prosecution</p> <p>13 of patent applications within his department?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know whether he was involved in the</p> <p>16 prosecution of the patent applications which are</p> <p>17 listed at -- well, the 5818, 5838, 5839, and 5840?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know whether Mr. Schaefer was</p> <p>20 involved in the prosecution of the patent</p> <p>21 applications, the numbers of which are listed?</p> <p>22 A. I don't know that either.</p> <p>23 Q. Underneath point 4 there is point 5, and you</p> <p>24 list drawbacks of, I believe, those patent</p>	<p>1 referred to?</p> <p>2 A. No, that's a tube.</p> <p>3 Q. Can I show you another figure then? Are you</p> <p>4 referring to --</p> <p>5 A. That's exactly what I mentioned. The liquid</p> <p>6 goes from the pump to -- from the cradle to the</p> <p>7 pump, from the pump to the filter, and then back.</p> <p>8 What I have done is change the position from the</p> <p>9 filter from behind the pump, or between pump and</p> <p>10 cradle, between cradle and pump.</p> <p>11 Q. So the location -- so the problem, or a</p> <p>12 drawback, was where Dr. Pahl and Mr. Braun had</p> <p>13 placed the filter in relation to the pump and the</p> <p>14 cradle; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And ultimately you modified that such that</p> <p>17 the fluid flow path went cradle, filter, pump?</p> <p>18 A. (Nod.)</p> <p>19 Q. If you look to Drawback No. 2, there is</p> <p>20 listed accumulation of dirt in the bottom?</p> <p>21 A. To be correct here it's called a sump.</p> <p>22 Q. What are you pointing to? I want to make</p> <p>23 sure. Oh, in the sump, I see, not the bottom. I</p> <p>24 got you. Why was there accumulation of dirt in the</p>

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<p style="text-align: right;">Page 229</p> <p>1 sump?</p> <p>2 A. May I?</p> <p>3 Q. Sure.</p> <p>4 A. This is the cartridge, or the liquid</p> <p>5 container, but there is always some liquid which is</p> <p>6 left over in this region over here, and that's the</p> <p>7 sump, and it is normal that then in this area that</p> <p>8 you have dirt accumulation.</p> <p>9 Q. Was that also a problem which is</p> <p>10 attributable to how the cradle, pump, and filter</p> <p>11 were arranged?</p> <p>12 A. Exactly.</p> <p>13 Q. Under point 3 it states the liquid level in</p> <p>14 the bottom, that might be the sump, the liquid level</p> <p>15 in the sump and in the cartridge, must be monitored</p> <p>16 and regulated; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Why did the liquid level in the sump and in</p> <p>19 the cartridge need to be monitored and regulated?</p> <p>20 A. I guess it's not easy to explain by using</p> <p>21 these pictures. This is based on my analysis of the</p> <p>22 prototype of Mr. Braun, the cleaning center</p> <p>23 prototype of Mr. Braun.</p> <p>24 Q. The one that is represented as P. Schneider</p>	<p style="text-align: right;">Page 231</p> <p>1 pump, in the cartridge, which presses fluid into the</p> <p>2 cradle, and from the cradle the fluid runs back into</p> <p>3 the sump, so this is basically simple, yes?</p> <p>4 As soon as you start the pump, you get</p> <p>5 overpressure in the cartridge, fill the cradle, and</p> <p>6 from the cradle it runs back into the sump, and as</p> <p>7 long as the pump is running, you keep the</p> <p>8 overpressure in the cartridge, and the cradle is</p> <p>9 filled with liquid.</p> <p>10 As soon as you stop the pump, you get</p> <p>11 rid of the overpressure, the cradle get empty, and</p> <p>12 everything stops, and now the chicken trough.</p> <p>13 The problem is that the sump</p> <p>14 evaporates, and as soon as the fluid level in the</p> <p>15 sump drops below the level of the pump, you can't</p> <p>16 generate an overpressure in the cartridge, and</p> <p>17 everything stops.</p> <p>18 Q. Okay. I understand.</p> <p>19 A. Yes?</p> <p>20 Q. Yes, I do.</p> <p>21 A. Now the chicken trough, the chicken trough</p> <p>22 is the tube which connects the cartridge with the</p> <p>23 sump, and as long as the fluid level is higher than</p> <p>24 the tube, no fluid runs from the cartridge back into</p>
<p style="text-align: right;">Page 230</p> <p>1 1994?</p> <p>2 A. Pete Schneider design.</p> <p>3 Q. Yes.</p> <p>4 A. This reflects only on design. It's not</p> <p>5 reflected on the technical. This is just for</p> <p>6 information. This reflects all on design.</p> <p>7 Q. I'm saying for the record on your time line</p> <p>8 it's the point where it says P. Schneider 1994?</p> <p>9 A. Yes.</p> <p>10 Q. So why, just back to point 3, why was</p> <p>11 that -- why did the liquid -- what is the drawback</p> <p>12 described at point 3?</p> <p>13 A. That point is extremely difficult to</p> <p>14 explain, because now we have to talk again about the</p> <p>15 chicken trough.</p> <p>16 Q. What does the chicken trough have to do with</p> <p>17 respect to point 3?</p> <p>18 A. Braun pursued the idea to have a cartridge</p> <p>19 which was located behind the shaver, and the idea</p> <p>20 behind this is that in the sump there is always some</p> <p>21 liquid, and at the moment where I start the cleaning</p> <p>22 process liquid is brought with the pump into the</p> <p>23 cartridge.</p> <p>24 Then you get an overpressure in the</p>	<p style="text-align: right;">Page 232</p> <p>1 the sump.</p> <p>2 As soon as the fluid level goes below</p> <p>3 the tube, air goes into the cartridge, and then</p> <p>4 fluid runs directly from the cartridge into the sump</p> <p>5 and maintains the level, and that's the chicken</p> <p>6 trough.</p> <p>7 ATTY. SHIMOTA: Let's mark that as</p> <p>8 Defendant's Deposition Exhibit No. 75.</p> <p>9 (Document marked as Exhibit 75</p> <p>10 for identification.)</p> <p>11 Q. So with respect to, just turning back to</p> <p>12 your invention disclosure record for points 3 -- I</p> <p>13 guess 3, 4 and 5, are they all related to, I guess,</p> <p>14 the operation of the 1994 device?</p> <p>15 A. Yes.</p> <p>16 ATTY. SHIMOTA: I would like to mark as</p> <p>17 Defendant's Deposition Exhibit No. 76 the English</p> <p>18 translation of a document beginning at B 007536 and</p> <p>19 ending at B 006635, and I'll hand you as well -- I'm</p> <p>20 marking as Defendant's Deposition Exhibit No. 77 the</p> <p>21 German original which is located at B 006536 and</p> <p>22 which ends at B 006635.</p> <p>23 (Documents marked as Exhibits 76 and</p> <p>24 77 for identification.)</p>

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1 Q. I'll just ask you initially if you recognize
2 what is reflected as Defendant's Exhibit No. 77.
3 A. Yes.
4 Q. What is Defendant Deposition Exhibit No. 77?
5 A. It's my lab notebook.
6 Q. If you turn to B 6542, the day listed at the
7 top of July 3, 1995, would that be approximately
8 your first day at Braun?
9 A. Yes.
10 Q. Underneath -- well, immediately underneath
11 where it say orientation, it states then information
12 regarding washing machine; is that correct?
13 A. Yes.
14 Q. Underneath there there is listed drawings,
15 parts list, and specification sheet, and there is a
16 question mark next to that?
17 A. Yes.
18 Q. Is that a reference to the materials
19 provided to you by Mr. Schaefer?
20 A. Yes.
21 Q. That would have been, approximately, the 20
22 or so documents in the binder that we discussed
23 yesterday?
24 A. Yes.

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1 Q. Next there is listed 3 individuals, which is
2 Mr. Zelarsky, Mr. Port, and Mr. Schaefer. Mr.
3 Schaefer is your boss correct?
4 A. Exactly.
5 Q. Who are Mr. Zelarsky and Mr. Port?
6 A. This refers to what I said yesterday. We
7 had an informal conversation, then we went to the
8 design -- oh, model shop, and we took Mr. Braun's
9 design, looks at Mr. Braun's --
10 MR. HOESER: Yes, I take over the
11 hardware, meaning 2 housings, one cartridge, that
12 kind of thing, and they were located in the model
13 shop, and Mr. Zelarsky is the head of the model shop
14 at this time, and Mr. Pahl was his -- it's kind of
15 shop floor assistant.
16 Q. Lab tech.?
17 A. What?
18 Q. Lab technician?
19 A. Yes, maybe. They are both technicians, yes.
20 They are responsible to make prototypes based on our
21 drawings, so they are strongly linked to the R&D
22 department, and they build all our prototypes.
23 Q. Are Mr. Zelarsky and Mr. Port still working
24 at Braun?

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1 A. No.
2 Q. Do you know when they left Braun? Do you
3 know when each of them left Braun? I assume they
4 didn't leave together.
5 A. I guess Mr. Pahl left Braun 4 to 5 years,
6 ago, he was very old, and Mr. Zelarsky 2 to 3.
7 Q. Do you know whether Braun has made any
8 efforts to collect documents from Mr. Zelarsky and
9 Mr. Port related to work on the shaver, shaving
10 cleaning center?
11 A. No.
12 Q. In order to make models would Zelarsky and
13 Mr. Port be provided with drawings --
14 A. Yes.
15 Q. Were they provided with any other
16 instructions?
17 A. Normally they are only provided with
18 drawings and with spoken information.
19 Q. Do you know who the replacements for Mr.
20 Zelarsky and Mr. Port are?
21 A. I guess the organization structure has
22 changed in the meantime, so maybe Mr. Port is
23 replaced by Mr. Klems, K-l-e-m-s, and Mr. Zelarsky
24 is replaced by Dr. Ring.

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1 Q. If you look midway to the bottom of this
2 page it says Number Book 5301 from Standards Office?
3 A. Yes.
4 Q. What is the Number Book 5301?
5 A. This reflects to my hook here in brackets.
6 That's the base of all BOMs --
7 Q. The bills of material?
8 A. -- we have. To build a BOM you need a
9 number, that's a basic number for the project or the
10 product, and that's the first 4 figures, and here
11 you can see it's in brackets, because there
12 wasn't -- Braun has just said, okay, Drawing No. 1,
13 No. 2, No. 3, and that's not BOM for me.
14 Q. If you turn to the next page, which is B
15 6543, there is another name of Mr. Honer, or Heiner
16 at the top?
17 A. That is myself.
18 Q. It's just a bad translation. I'm looking at
19 the English. Okay. I'm not going to ask about that
20 then.
21 A. This is action plan who do what, and I write
22 myself in.
23 Q. If you could look then to B 6544 there is
24 listed at the top a 10:00 a.m. meeting with Dr.

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<p style="text-align: right;">Page 237</p> <p>1 Pahl?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall what you would have been</p> <p>4 meeting with Dr. Pahl about at the beginning of your</p> <p>5 work at Braun?</p> <p>6 A. I can't remember, but I guess he recruited</p> <p>7 me and he didn't see me. That's my third day at</p> <p>8 Braun and he likes to say hello, because, remember,</p> <p>9 he recruited me, so... I don't know.</p> <p>10 Q. Do you know whether you would have been</p> <p>11 discussing the cleaning center at that point in</p> <p>12 time?</p> <p>13 A. I can't remember.</p> <p>14 Q. If you look to B 6546 under the second dash</p> <p>15 I think it states the VDE is okay.</p> <p>16 A. I can't remember, no.</p> <p>17 Q. And so you don't know what is meant by that</p> <p>18 notation?</p> <p>19 A. No.</p> <p>20 Q. Underneath that it says Federal Testing</p> <p>21 Institute in Braunschweig not until after prototype</p> <p>22 is complete?</p> <p>23 A. Yes.</p> <p>24 Q. Was the cleaning center ever sent to the</p>	<p style="text-align: right;">Page 239</p> <p>1 A. Yes.</p> <p>2 Q. So did Mr. Braun come back to Braun to --</p> <p>3 did Mr. Braun come back to Braun the company to</p> <p>4 discuss the cleaning center with you?</p> <p>5 A. I asked Mr. Haegle to call him to bring</p> <p>6 him in to have the chance to discuss directly with</p> <p>7 the inventor or the creator of this product.</p> <p>8 Q. You list under there at least -- not list</p> <p>9 under there, you list under basic explanation of</p> <p>10 design under the second point, its problem pumping</p> <p>11 air reasons for current valve. My question is, is</p> <p>12 that, with respect to the drawing that we did for, I</p> <p>13 believe it's Defendant's Exhibit 75, is that the</p> <p>14 problem with the --</p> <p>15 A. Chicken trough.</p> <p>16 Q. -- chicken trough we discussed before?</p> <p>17 A. Yes.</p> <p>18 Q. And I guess the point above that too where</p> <p>19 it says design of valve piece why connected to sump,</p> <p>20 that's also the same phenomena discussed before as</p> <p>21 well?</p> <p>22 A. Yes.</p> <p>23 Q. When you had this meeting with Mr. Braun did</p> <p>24 he provide you with any documents?</p>
<p style="text-align: right;">Page 238</p> <p>1 Federal Testing Institute in Braunschweig?</p> <p>2 A. We had planned to send a prototype, and then</p> <p>3 we changed plan and we traveled to Braunschweig. I</p> <p>4 don't know when, but we travel. I travelled</p> <p>5 together with colleague from the quality department</p> <p>6 and the reason for this was that we are afraid that</p> <p>7 alcohol is too explosive as a cleaning fluid.</p> <p>8 Q. Did you receive any testing results from</p> <p>9 when you were in Braunschweig?</p> <p>10 A. No, it was just informal meeting how they</p> <p>11 would test device which contains alcohol, but it</p> <p>12 ends by that we stop the contact, because this</p> <p>13 institute is only responsible for appliances and</p> <p>14 devices that are used by the industry, by the</p> <p>15 industry, not by private users, so, for example, if</p> <p>16 you like to sell something in the industry where</p> <p>17 employees work with, then you have to go to this</p> <p>18 institute. If you like to sell something to private</p> <p>19 user, they are not responsible.</p> <p>20 Q. I understand. If you could turn to B 6549.</p> <p>21 On that page I believe at the top it states meeting</p> <p>22 with Mr. Braun.</p> <p>23 A. Yes.</p> <p>24 Q. Is this reference to Gebhard Braun?</p>	<p style="text-align: right;">Page 240</p> <p>1 A. No.</p> <p>2 Q. Was this the only time you met with Mr.</p> <p>3 Braun regarding the cleaning center?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall how long this meeting was?</p> <p>6 A. I can't remember. Here is written it's 10</p> <p>7 to -- next page.</p> <p>8 Q. Yes.</p> <p>9 A. It's 4 hours. Maybe it's -- it took so</p> <p>10 long. I don't know.</p> <p>11 Q. Well, if you look at the bottom where it</p> <p>12 says summary of meeting -- the middle of the page,</p> <p>13 the next page you were on, actually, summary of</p> <p>14 meeting with Mr. Braun --</p> <p>15 A. Yes.</p> <p>16 Q. -- and there there is listed what is</p> <p>17 referred to as ZSB, zinc, steel, brass prototype; do</p> <p>18 you see that?</p> <p>19 A. Yes. Say it again in English.</p> <p>20 Q. ZSB.</p> <p>21 A. It's called assembly.</p> <p>22 Q. Oh, zinc, steel brass assembly?</p> <p>23 A. Z S B means assembly, yes.</p> <p>24 Q. So it's not referring to, zinc, steel and</p>

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<p style="text-align: right;">Page 241</p> <p>1 brass?</p> <p>2 A. No, no, no.</p> <p>3 THE INTERPRETER: It's the abbreviation;</p> <p>4 it means assembly.</p> <p>5 Q. So what is indicated at that point under the</p> <p>6 summary of the meeting for Mr. Braun?</p> <p>7 A. There was a solution with a kind of swimming</p> <p>8 valve to improve the chicken trough design, and one</p> <p>9 idea was to have kind of swimming valve. You know,</p> <p>10 there is a valve, and there is a ball swimming on</p> <p>11 the top of the fluid, and as soon as the level of</p> <p>12 the fluid goes down, the ball came down together</p> <p>13 with a tube, which means rinse fluid into the sump</p> <p>14 until the level is rising high enough, then the ball</p> <p>15 close.</p> <p>16 Q. I understand. I mean, one, see if I'm</p> <p>17 understanding you correctly. Have you ever seen the</p> <p>18 toilet bowls in, at least the United States, have</p> <p>19 something like that?</p> <p>20 A. Exactly. Yes, we have the same in Germany.</p> <p>21 Q. That's what I figured, but I wasn't sure.</p> <p>22 A. We had various solutions to work with this</p> <p>23 swimming effect.</p> <p>24 Q. So was the valve, the floating valve, was</p>	<p style="text-align: right;">Page 243</p> <p>1 provide you any guidance as to the cleaning center</p> <p>2 project?</p> <p>3 A. No.</p> <p>4 Q. I don't mean on this day, I mean ever, at</p> <p>5 any time.</p> <p>6 A. No. As you can read here, it just mention</p> <p>7 that I should think about the evaporation curve of</p> <p>8 alcohol on the temperature and the heat expansion of</p> <p>9 the fluid.</p> <p>10 Q. If you could turn to page 6558. There near</p> <p>11 the bottom there is referenced a Mr. Bopp?</p> <p>12 A. Yes.</p> <p>13 Q. Who was Mr. Bopp?</p> <p>14 A. Mr. Bopp is the colleague of Mr. Port in</p> <p>15 the model shop, and he was in charge of the supply</p> <p>16 of materials which needed to be imported from the</p> <p>17 outside.</p> <p>18 Q. Does Mr. Bopp still work at Braun?</p> <p>19 A. No.</p> <p>20 Q. Do you know what steps Braun has taken to</p> <p>21 gather documents that Mr. Bopp may have had</p> <p>22 regarding the cleaning center project?</p> <p>23 A. I don't know.</p> <p>24 Q. Turn to page 6579, B 6579. At the top I</p>
<p style="text-align: right;">Page 242</p> <p>1 that Mr. Braun's, an idea of Mr. Braun?</p> <p>2 A. I can't remember.</p> <p>3 Q. Do you know if there would have been any</p> <p>4 documents which would discuss that swimming valve?</p> <p>5 A. I think there should be some sketches from</p> <p>6 me about swimming valves somewhere, somewhere in</p> <p>7 here in the piles.</p> <p>8 Q. If you could turn to B 6553 you will see</p> <p>9 there, I believe, the names Mr. Stolper and Mr.</p> <p>10 Hilfinger?</p> <p>11 A. Yes.</p> <p>12 Q. What roles did Mr. Stolper and Mr. Hilfinger</p> <p>13 play in the development of the cleaning center?</p> <p>14 A. It was a subordinate role. Those are</p> <p>15 colleagues that work on the development of</p> <p>16 toothbrushes, and at that point in time I was just</p> <p>17 running around frantically at Braun asking everybody</p> <p>18 what they were doing and if they possibly could help</p> <p>19 me.</p> <p>20 And Mr. Hilfinger is the equivalent of</p> <p>21 Mr. Haegele when it comes to toothbrush development,</p> <p>22 and Mr. Stolper would be the equivalent of Mr.</p> <p>23 Schaefer.</p> <p>24 Q. Did either Mr. Stolper or Mr. Hilfinger</p>	<p style="text-align: right;">Page 244</p> <p>1 guess it says meeting with Mr. Blessing, and</p> <p>2 underneath there there is, I guess it says, Braun,</p> <p>3 then Mr. Schaefer, and then yourself. When you</p> <p>4 write the word Braun there, do you mean Braun the</p> <p>5 company or Mr. Braun?</p> <p>6 A. Braun the company.</p> <p>7 Q. Who is Mr. Blessing?</p> <p>8 A. Mr. Blessing is a co-worker of the company</p> <p>9 Braun Melsone, as far as I recall.</p> <p>10 That is a company that manufactures</p> <p>11 infusion bottles for medication which is</p> <p>12 incorporated in infusion bottles.</p> <p>13 Q. Were you meeting with Mr. Blessing or --</p> <p>14 yes, was the meeting that you had with Mr. Blessing</p> <p>15 related to the shaver cleaning center project?</p> <p>16 A. Yes.</p> <p>17 Q. And what assistance -- or why were you</p> <p>18 meeting with Mr. Blessing regarding the shaver</p> <p>19 cleaning center project?</p> <p>20 A. The idea, the product of Mr. Braun, included</p> <p>21 a rubber on this spot (indicating) that was</p> <p>22 perforated using a strong needle. This needle was</p> <p>23 hollow at the inside, so that the liquid, as well as</p> <p>24 the air, were able to get in and out.</p>

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<p style="text-align: right;">Page 245</p> <p>1 And as far as I recall, I wanted to 2 talk to the experts of Braun Melsone how to design 3 such a rubber and how to design such a needle. 4 Q. Well, did the people at Braun Melsone 5 provide you any information regarding how you would 6 do that or how you would design both the, I guess, 7 the plastic or rubber part and the needle? 8 A. No. 9 Q. Was this the only meeting you had with Mr. 10 Blessing or Mr. -- 11 A. Yes. 12 Q. Why did you have no further meetings? 13 A. Because Braun Melsone is buying all the 14 technology. They didn't have the technology 15 in-house, they just buy it, so they have suppliers 16 who are experts. Braun Melsone is not an expert in 17 that kind of thing. It just bring the product into 18 the market and he creates products around, but he 19 has no knowledge about the topic. 20 Q. Did Mr. Blessing direct you to any of the 21 third-party suppliers for assistance? 22 A. Yes. 23 Q. To whom did he direct you? 24 A. He told me 2 suppliers of needles, and as</p>	<p style="text-align: right;">Page 247</p> <p>1 provided it to Mr. Douglas? 2 A. Yes. 3 Q. If you could turn to B 006586, there, I 4 believe under the 4th bullet point, it states, order 5 ultrasound cleaner? 6 A. Yes. 7 Q. Can you tell me what ultrasound cleaner you 8 are referring to? 9 A. It's cleaner for contact lenses. 10 Q. Why did you order a cleaner for contact 11 lenses? 12 A. Because I thought -- I simply thought it 13 would be interesting to do. 14 Q. Were you trying to use -- were you using the 15 -- were you looking at the device -- were you 16 looking at the ultrasonic cleaning device to assist 17 you on your work in the cleaning center project? 18 A. Certainly. 19 Q. Do you know what particular device it is 20 that you ordered? 21 A. I still have it. 22 Q. And do you know the name of it? 23 A. No. 24 Q. Would there be any written records regarding</p>
<p style="text-align: right;">Page 246</p> <p>1 far as I remember he had one supplier for the rubber 2 part. 3 Q. Do you remember the names of those 4 suppliers? 5 A. I provided the lawyers with a list of some 6 companies. 7 Q. When did you provide the lawyers with a list 8 of the companies? 9 A. Some months ago. 10 Q. Was this a list that you generated at the 11 request of lawyers, or is that a list that you had 12 generated during the course of your work on the 13 cleaning center project? 14 A. When Paul Douglas asked me for documents, I 15 had an idea to go to my, how is called, calendar and 16 to see to which external companies I had spoken to. 17 Q. Did you provide your -- I assume then you 18 have retained your calendar from when you started 19 working at Braun until today? 20 A. Yes. No, not until today, until '97, -8. 21 Q. Did you provide your calendar to the 22 attorneys? 23 A. Yes. I'm not sure. 24 Q. If you have provided it, would you have</p>	<p style="text-align: right;">Page 248</p> <p>1 this device? 2 A. No, I received that device, I looked at it, 3 I put it in my cupboard, and that is where it is 4 still standing, because it didn't make any sense for 5 me to follow up. 6 Q. Who did you receive the device from? 7 A. I can't remember. 8 Q. Turn to B 6589. You reference a particular 9 patent there, US Patent No. 3172416? 10 A. Yes. 11 Q. Can you tell me why you referenced that 12 particular patent? 13 A. I can't remember. It's still the stage in 14 my process of getting into the company that I 15 collect all the information, and as soon as there is 16 something I like to know or a question mark, I put 17 it in my notebook, but I can't remember why I 18 referred to this. 19 Q. Do you know from where or from whom you 20 would have obtained that particular US patent? 21 A. No. 22 Q. Turn to B 6595. At the bottom of the page 23 it states presentation Dr. Pahl/Haegele in 2 weeks? 24 A. Yes.</p>

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1 Q. Did you ever make a presentation -- well, I
2 assume that -- that presentation, was that a
3 presentation regarding the cleaning center project?

4 A. I think so.

5 Q. Do you recall making a presentation to Dr.
6 Pahl and Dr. Haegele regarding the cleaning center
7 project?

8 A. I can't remember, and in German it's not
9 presentation. The word which is used, the German
10 word which is used, is not as strong as a
11 presentation; it's much more informal, it's showing
12 something, for example.

13 Q. Do you know why you would have had -- may
14 have been having an informal meeting with Dr. Pahl
15 and Dr. Haegele in approximately August of 1995 --
16 not approximately, in August of '95?

17 A. Well, my way of doing things at that time
18 was always to keep my bosses informed and so at the
19 time I said to Mr. Haegele that I wanted to show him
20 what I am working on so that he sees what the status
21 is of my work.

22 Q. Do you know why you would have wanted to
23 also show it to Dr. Pahl?

24 A. Well, normally the way that works is you go

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1 to Mr. Haegele's office, and then you tell him that
2 you want to have an informal meeting, and then Mr.
3 Haegele says that, well, then we can take this and
4 that person with us as well.

5 Q. So do you know whether -- is it your
6 recollection that Mr. Haegele -- or Dr. Haegele
7 would have suggested that Dr. Pahl be involved in
8 this presentation?

9 A. I think so.

10 Q. Did he express to you why he thought Dr.
11 Pahl should be involved in the presentation?

12 A. No.

13 Q. If you could direct your attention to B
14 6607, and I believe here there actually is a
15 notation as to the meeting, or the informal meeting
16 with Dr. Haegele?

17 A. Mm-mm.

18 Q. In the middle of the page it says, Dr.
19 Haegele positive attitude towards project goal.
20 After meeting on July 5 not convinced about the
21 technical implementation. According to Dr. Haegele
22 after today's meeting the implementation of the
23 project has become more likely. Was that accurate?

24 A. Yes.

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1 Q. So is it correct -- or did Dr. Haegele
2 express doubt about the cleaning center project to
3 you prior to this meeting?

4 A. Doubts about what?

5 Q. Doubts about the implementation of the
6 cleaning center.

7 A. As far as I remember everybody in the
8 technical community knows that there are some doubts
9 outside the rest of the company about this project.

10 Q. Why was that well-known within the technical
11 group?

12 A. Because of the comments made from guys like
13 Mr. Greaves.

14 Q. After the meeting in September of '95 why
15 did Dr. Haegele feel more positive or -- well, I'll
16 take a step back. Did Dr. Haegele tell you anything
17 about why he felt more positive about the project
18 after your meeting in September of '95?

19 A. I guess beside the problem to sell the
20 product inside of the company he saw progress in
21 getting proper technical solutions.

22 Q. And what were the technical solutions that
23 you expressed to him?

24 A. I can't remember the detail.

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1 Q. Would they be -- for example, we looked at
2 your invention disclosure record which you filed in
3 September of 1995; would some of those solutions
4 have been what you would have expressed to Dr.
5 Haegele?

6 A. I guess so, yes.

7 Q. Do you know if Dr. Pahl was at the meeting
8 in September of '95?

9 A. I'm sure he wasn't.

10 Q. You are sure he was not?

11 A. He was not.

12 Q. Why do you say you are sure he was not?

13 A. Because he is not on the list.

14 Q. If you could turn to B 6612. At that 6 near
15 the bottom it says Meeting with Dr. Haegele. There
16 is an arrow to info Dr. Pahl. Do you know what is
17 meant by the notation info Dr. Pahl?

18 A. I don't know what it means. Maybe it means
19 that I should pass along Dr. Pahl's office and say,
20 Hey, we had a meeting last week and that's the
21 result.

22 Q. This would have been one of the -- I mean, I
23 guess you said that you would come to Dr. Pahl's
24 office on like a Friday and have a cup of coffee and

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<p style="text-align: right;">Page 253</p> <p>1 discuss things?</p> <p>2 A. Yes. It's very common at Braun that we have</p> <p>3 coffee on Friday. In every department there is a</p> <p>4 time, like 2:00 in the afternoon, where we get</p> <p>5 together, review the week, and have coffee, and it's</p> <p>6 also common that colleagues from other departments</p> <p>7 came in.</p> <p>8 Q. If you could turn then to B 6614, there is</p> <p>9 listed there, 8, Meeting with Dr. Pahl, and then</p> <p>10 next to there it's several things, contacts,</p> <p>11 inclined position, odor, locking safety at 80</p> <p>12 degrees celsius through -- the translator couldn't</p> <p>13 read that word. Do you recall this meeting with Dr.</p> <p>14 Pahl?</p> <p>15 A. No.</p> <p>16 Q. Do you know what is meant by contacts?</p> <p>17 A. Mean official meeting instead of -- oh, what</p> <p>18 means here. Sorry.</p> <p>19 Q. Yes.</p> <p>20 A. Yes. Okay. It's a guess.</p> <p>21 ATTY. PATTON: Don't guess.</p> <p>22 A. Don't guess, no.</p> <p>23 Q. Do you know what is meant by inclined</p> <p>24 position in your notebook?</p>	<p style="text-align: right;">Page 255</p> <p>1 A. Yes.</p> <p>2 Q. Who is Dr. Finger?</p> <p>3 A. At this point of time Dr. Finger was the</p> <p>4 head of chemical lab, the service lab in -- was in</p> <p>5 Braun R&D community.</p> <p>6 Q. What role did Dr. Finger play in the</p> <p>7 development of the shaver cleaning system?</p> <p>8 A. At this point of time I wasn't an expert in</p> <p>9 the cleaning fluid, because I'm not a chemist, I'm a</p> <p>10 designer, or a technician, and Dr. Finger is a</p> <p>11 chemist, and I have idea to discuss with him how we</p> <p>12 can improve the recipe of the fluid to get rid of</p> <p>13 some problems.</p> <p>14 Q. So did Dr. Finger do work on optimizing the</p> <p>15 cleaning fluid?</p> <p>16 A. No.</p> <p>17 Q. He did not?</p> <p>18 A. No.</p> <p>19 Q. Did he do anything with respect to the</p> <p>20 cleaning fluid?</p> <p>21 A. Not really.</p> <p>22 Q. Did he provide you any advice?</p> <p>23 A. No.</p> <p>24 Q. Do you know if -- well, it says here at the</p>
<p style="text-align: right;">Page 254</p> <p>1 A. Yes.</p> <p>2 Q. What is meant by inclined position?</p> <p>3 A. At this point in time I'm not sure that we</p> <p>4 have to tilt the shaver at least in one direction.</p> <p>5 Q. Do you know why you would have been</p> <p>6 discussing the tilting of the shaver with Dr. Pahl?</p> <p>7 A. I don't know.</p> <p>8 Q. Do you know what is meant by the entry</p> <p>9 locking safety at 80 degrees celsius?</p> <p>10 A. Yes.</p> <p>11 Q. What is meant by that entry?</p> <p>12 A. The problem is that alcohol starts cooking</p> <p>13 at 80 degrees, and we had a test which every Braun</p> <p>14 product has to pass, and that's an aging test going</p> <p>15 from minus 20 to plus 80 degrees in ten cycles, and</p> <p>16 the problem here is that if alcohol starts cooking</p> <p>17 the pressure in enclosed cartridge rises extremely,</p> <p>18 so we had a discussion about how to solve this</p> <p>19 problem.</p> <p>20 Q. Did Dr. Pahl provide you any guidance as to</p> <p>21 how to solve the problem?</p> <p>22 A. No.</p> <p>23 Q. If you could turn to B 6617. At the top</p> <p>24 there is listed a Dr. Finger; do you see that?</p>	<p style="text-align: right;">Page 256</p> <p>1 bottom, Give him recipe for cleaning liquid; do you</p> <p>2 see that?</p> <p>3 A. Yes.</p> <p>4 Q. Did you give him the recipe for the cleaning</p> <p>5 liquid?</p> <p>6 A. Yes.</p> <p>7 Q. How would you have given it to him? Would</p> <p>8 you have given it to him as a document or verbal?</p> <p>9 A. No, as a document, copy of my own document.</p> <p>10 Q. Does Dr. Finger still work at Braun?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know if Braun has contacted Dr.</p> <p>13 Finger to ask him if he has any documents related to</p> <p>14 the development of the shaver cleaning system?</p> <p>15 A. No.</p> <p>16 ATTY. SHIMOTA: I have one more to go.</p> <p>17 I'd like to mark as Defendant Deposition Exhibit No.</p> <p>18 78 an English translation of documents at Braun</p> <p>19 006636 to B 006735.</p> <p>20 (Document marked as Exhibit 78</p> <p>21 for identification.)</p> <p>22 THE VIDEOGRAPHER: Off the record 3:10</p> <p>23 p.m.</p> <p>24 (Recess taken.)</p>

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<p style="text-align: right;">Page 257</p> <p>1 THE VIDEOGRAPHER: Back on the record 2 3:20 p.m. 3 ATTY. SHIMOTA: I would like to mark as 4 Defendant's Deposition Exhibit No. 79 the German 5 original of the document at B 006636 ending at B 6 006735. 7 (Document marked as Exhibit 79 8 for identification.) 9 Q. On the first page at B 006636 at item 10 10 there is listed Klauer about secrecy, 2382; do you 11 see that? 12 A. Yes. 13 Q. What is represented by the number -- Lotus 14 2382 mean? 15 A. It's a phone number. 16 Q. That's his phone number, it's his extension? 17 A. Yes. 18 Q. Do you know why you were meeting with Mr. 19 Klauer about secrecy in approximately October of 20 '95? 21 A. No. I can't remember. 22 Q. Did anyone ever express to you -- or at any 23 time did anyone express to you that you needed to 24 keep the work you were doing on the cleaning center</p>	<p style="text-align: right;">Page 259</p> <p>1 secrecy agreements were signed? 2 A. Some. I don't know how much, how many. 3 Q. Would you handle the secrecy agreement or 4 would that be something that would be handled by the 5 Legal Department. 6 A. No, it's almost always handled by the Legal 7 Department. They just get my input, I like to talk 8 to X, Y, Z about whatever, and that's the documents 9 I give away, and that's information I give away, and 10 the rest is done by Legal. 11 Q. Do you know who would have handled drafting 12 the secrecy agreements, or who would have handled, 13 or who would have -- do you know who in the Legal 14 Department would have worked with the third parties 15 to finalize the secrecy agreements? 16 A. Klauer, but also there is his boss at this 17 time, boss Dr. Marsh. 18 Q. Is there a name Dr. -- or not Dr., Mr. 19 Vorbeck? 20 A. Yes. 21 Q. Was Mr. Vorbeck working at Braun when you 22 came there in July of '95? 23 A. I think so. 24 Q. Do you know when he began -- or was he -- at</p>
<p style="text-align: right;">Page 258</p> <p>1 project secret? 2 A. Yes. 3 Q. And who would have expressed that sentiment 4 to you? 5 A. It's part of my contract. 6 Q. And when you worked with third-party vendors 7 such as Inchem, for example, how did you act to 8 ensure that things that -- that work that they were 9 doing with you, or Braun work, would remain secret? 10 ATTY. PATTON: Object to the form. You 11 can answer. 12 A. That depends on the topic of our 13 discussions. If there is a need to give information 14 to the supplier, which, yes, shows too much from our 15 product, we make secrecy agreement, or if you just 16 go to the supplier and say, okay, this water is 17 cold, please heat it, don't explain anything, we 18 don't make secrecy agreement. 19 Q. Did there come a time when you had -- in 20 connection with the cleaning center project did 21 there ever come a time when you had third-party 22 signed secrecy agreements? 23 A. Yes. 24 Q. Do you remember on how many occasions such</p>	<p style="text-align: right;">Page 260</p> <p>1 the time was Mr. Vorbeck working in connection with 2 the shaver development group? 3 A. I don't know. 4 Q. Let me try and make my question better. Mr. 5 Klauer worked with people in the shaver research 6 group? 7 A. Right. 8 Q. Do you know if Mr. Vorbeck worked in the 9 same capacity in any way; you know, worked with 10 individuals in the research group for shavers? 11 A. As far as I know, no. 12 Q. Do you know at all around, like, the '95 13 time frame what group he would have been working 14 with, if any? 15 A. No. 16 Q. If you could direct your attention to B 17 006642, it states in the second bullet point 18 cleaning liquid from long-term test to Dr. Finger? 19 A. Yes. 20 Q. Do you know what the long-term test was? 21 A. Yes. 22 Q. What was the long-term test? 23 A. This means I gave a used cartridge to Dr. 24 Finger.</p>

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<p style="text-align: right;">Page 261</p> <p>1 Q. What did you want Dr. Finger to do with the 2 used cartridge? 3 A. To find out how the cleaning fluid has 4 changed by using it for I don't know how many 5 cycles. 6 Q. Did he find out how the cleaning fluid had 7 changed? 8 A. Roughly. 9 Q. Did he perform tests in order to make that 10 determination? 11 A. I can't say which tests he did, but I'm sure 12 he did tests. 13 Q. Did he convey to you the results of such 14 tests? 15 MR. HOESER: Sure. 16 Q. Would he have conveyed them to you in 17 writing or verbally? 18 MR. HOESER: In writing. 19 Q. And would that have taken the form a 20 memoranda? 21 MR. HOESER: No, it's a lab report. 22 Q. What would the lab report have looked like? 23 That's a tough question. What information would 24 have been contained on the lab report?</p>	<p style="text-align: right;">Page 263</p> <p>1 to the shaver cleaning center project? 2 A. In 1995 it's only Dr. Finger. Later on 3 there are a couple of chemists. There were Dr. 4 Olive, Dr. Cebus, and Dr. Langhof, and now it's -- I 5 have to look in my current. 6 Q. Sure. 7 A. I can't remember the name, but you will find 8 anyways. No, I didn't find. There is a new lady 9 now, because all the doctors, except Cebus, are 10 ladies and is getting pregnant after a while. 11 Q. Well, we have talked about Dr. Finger, so 12 for Dr. Olive, Dr. Cebus, Dr. Langhof, and the new 13 chemist, do you know whether Braun has contacted any 14 of them to gather documents related to the shaving 15 cleaning center project? 16 A. I don't know. 17 Q. If you could look to B 6734. There is 18 listed there in the middle of the page -- it says 19 Dr. Pahl and Dr. Finger, examination of razor 20 stubble; do you see that? 21 A. Yes. 22 Q. You see that? 23 A. Yes. 24 Q. Why did you have a meeting with Dr. Pahl and</p>
<p style="text-align: right;">Page 262</p> <p>1 A. Who asked for the research or the study, 2 when, what is the project, what was given to the 3 lab, when the test or examination is finished, and 4 the result of the examination. 5 Q. How often -- how many -- or how many 6 such -- or -- sorry. How many lab reports did Dr. 7 Finger generate for you in connection with the 8 cleaning center project? 9 A. I don't know. Many. 10 Q. Many? 11 A. Yes. 12 Q. Would it have been more than 50? 13 A. No. That's too much. Something between 20 14 and 30, 40. 15 Q. Do you know the name Mr. Sprugel? 16 A. Yes. 17 Q. Who is Mr. Sprugel? 18 A. Mr. Sprugel is the boss for Mr. Arendt, and 19 at this point of time he was the owner of the 20 company called Imchen, one of the owner. 21 Q. Was there anyone other than -- in the 22 chemical -- in the chemistry department, other 23 than -- or did you work with anyone other than Dr. 24 Finger in the chemical laboratory department related</p>	<p style="text-align: right;">Page 264</p> <p>1 Dr. Finger regarding examination of razor stubble? 2 ATTY. PATTON: I object to the form of 3 that question. 4 A. At this point of time Dr. Pahl was head of 5 the research department and in this department they 6 had an x-ray microscope, and that's the reason why I 7 asked Pahl about what is the knowledge about the 8 size of cutting beard stubble, and Dr. Finger in the 9 context that he has analyzed stubble coming from a 10 cartridge. 11 Q. So did Dr. Pahl and Dr. Finger subsequently 12 provide you information regarding razor stubble? 13 A. I think so. 14 Q. Do you know if they would have provided you 15 information which would have been in written form? 16 A. Yes, Dr. Finger for sure; Dr. Pahl I don't 17 know. 18 ATTY. SHIMOTA: I believe I have no 19 questions for you, any further questions for you. 20 Thank you very much for your time. 21 THE VIDEOGRAPHER: Here ends this 22 deposition of Juergen Hoesser. The number of 23 videotapes used was 6. Off the record 3:33 p.m. 24</p>

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1 Commonwealth of Massachusetts
2 Suffolk, ss.
3 I, Carol A. Pagliaro, Registered Professional
4 Reporter and Notary Public in and for the
5 Commonwealth of Massachusetts, do hereby certify
6 that to the best of my knowledge and belief JUERGEN
7 HOESER, the witness whose deposition is hereinbefore
8 set forth, was previously sworn and that such
9 deposition, Volume II, is a true record of the
10 testimony given by the witness to the best of my
11 skill and ability.

12 I further certify that I am neither related to,
13 nor employed by, any of the parties in or counsel to
14 this action, nor am I financially interested in the
15 outcome of this action.

16 In witness whereof, I have hereunto set my hand
17 and seal this 26th day of May, 2005.
18
19

20 _____
21 Carol A. Pagliaro, RMR
22 Notary Public
23 CSR No. 123293
24 My commission expires
April 28, 2011

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